

# **DOG AMENDMENT (STOP PUPPY FARMING) BILL 2020**

## **EXPLANATORY MEMORANDUM**

### **OVERVIEW OF THE BILL**

The Dog Amendment (Stop Puppy Farming) Bill 2020 amends the *Dog Act 1976* to give effect to measures to prevent and stop puppy farming by regulating the breeding and sale of dogs in Western Australia.

Dog breeding is not currently regulated in Western Australia. As a result, irresponsible dog breeders are able to:

- paw print disguise their operations;
- paw print avoid detection by authorities; and
- paw print continue to breed irresponsibly.

The reforms in this Bill approach the problem of overbreeding and inappropriate breeding of dogs in a number of ways:

- paw print by reducing the number of unwanted dogs born;
- paw print providing another outlet for the sale or adoption of unwanted or abandoned dogs;
- paw print providing a means for purchasers to be confident they are not sourcing their dog from a puppy farm; and
- paw print allowing dogs to be traced throughout their life thus allowing puppy farms to be identified and shut down.

The measures in this Bill will regulate the breeding of dogs and ensure both transparency and traceability to identify from where dogs are coming.

### **Mandatory dog sterilisation**

Under this legislation, unless exempt, all dogs will be required to be de-sexed by the time they reach two years of age. This requirement will not apply to dogs that they are registered with their local government at the time the legislation commences. There will be no additional imposition on people who currently own a dog – or on their dogs.

Exemptions from mandatory sterilisation will also apply if:

- a vet provides a certificate exempting the dog on health or welfare grounds,
- a dog is owned by a person who has been granted an approval to breed, or
- the dog is a livestock working dog.

Unsterilised dogs will only be able to be registered on an annual basis. This will incentivise dog owners to sterilise their dog. The ability to register for three years and lifetime will remain as options for dogs that are sterilised.

## **Approval to breed (dogs)**

A person who makes a decision to breed their dog, or who wishes to keep this option open, can apply for an approval to breed from their local government:

- if their dog is unsterilised and not otherwise exempt; or
- if their dog is exempt from sterilisation for any reason and breeds. The application must be made within seven days of the dog giving birth.

An approval to breed is a one-off application by the dog owner and stays in place indefinitely unless it is cancelled. A local government can cancel an approval to breed if the owner is not compliant with the Dog Act or Animal Welfare Act, including the new standards – or if they breach the conditions of the approval.

## **Centralised registration system**

This Bill introduces the requirement for a centralised registration system that will record every dog in Western Australia. The Bill also amends the *Cat Act 2011* so all information about cat and dog registrations is recorded in the same database.

The centralised registration system will enable the source of a dog to not only be identified, but to be traced through its life. It will also allow authorities to identify and monitor all dog owners and dog breeders and will ensure information can be shared across local government districts.

## **Transitioning pet shops to adoption centres**

The reforms in this Bill change the way that pet shops source their puppies and provide another outlet for unwanted or abandoned dogs.

Any pet shop that intends to sell dogs will be required to apply for approval from their relevant local government. The pet shop will only be able to source dogs from a rescue or shelter organisation that has been accredited by the State Government.

To safeguard consumers, each accredited organisation must provide a health assessment for each dog that is supplied to a pet shop. The pet shop must provide the health assessment and information about the source of the dog to the person who purchases the dog.

## **Greyhounds**

The Bill removes the requirement for retired greyhounds to be muzzled.

## **CLAUSE NOTES**

Contained below is a brief description of each clause contained in the *Dog Amendment (Stop Puppy Farming) Bill 2020* (the Bill).

### **Part 1 – Preliminary**

#### ***Clause 1 – Short title***

Clause 1 cites the short title of the *Dog Amendment (Stop Puppy Farming) Act 2020*.

#### ***Clause 2 – Commencement***

This clause provides that Part 1 will commence on the day on which the Act receives Royal Assent.

Part 2 (other than Division 3) will commence on the day after the Act receives Royal Assent, thereby removing the muzzling requirements from retired greyhounds.

The remainder of the Act will come into effect on days to be fixed by proclamation. Timing will depend upon the development of regulations and establishment of the centralised registration system.

### **Part 2 – Dog Act 1976 amended**

#### **Division 1 – Act Amended**

##### ***Clause 3 – Act amended***

This clause provides that this part of the Bill amends the *Dog Act 1976*.

#### **Division 2 – Amendments commencing on day after Royal Assent**

##### ***Clause 4 – Section 33 amended***

Section 33 of the *Dog Act 1976* provides that retired greyhounds must wear a muzzle when in a public place unless it has successfully completed a training programme.

Clause 4 deletes section 33(1) and (3) so there is no longer a requirement for greyhounds to be muzzled in public.

The requirement for greyhounds to be on a leash and under the control of a person capable of controlling the dog when in a public place is retained.

##### ***Clause 5 – Section 33B amended***

Clause 5 is a consequential amendment to reflect changes made by clause 4 of this Bill.

## **Division 3 – Amendments commencing on proclamation**

### **Clause 6 – Long title amended**

This clause amends the long title of the *Dog Act 1976* by deleting the reference to ‘ownership and keeping of dogs’ and replacing it with a reference to the ‘ownership, breeding and keeping of dogs, the supply of dogs to and by relevant pet shop businesses’.

This change is made to reflect the new provisions that are being inserted by this Bill.

### **Clause 7 – Section 3 amended**

This section of the *Dog Act 1976* provides definitions used throughout the that Act.

Subclause (1) deletes the definition of **sterilised**. A new definition is inserted by subclause (7).

Subclause (2) inserts the following new definitions in section 3 of the Act:

- ‘Convicted person’ is defined as meaning a person that has been convicted in the last 5 years of an offence against the *Dog Act 1976*, *Cat Act 2011*, *Animal Welfare Act 2002* or an offence against an equivalent law in another State or Territory. A convicted person can be refused an approval to breed, approval to supply a pet shop business, or a pet shop approval.
- ‘Pet shop’ is defined as meaning a shop in or from which a ‘relevant pet shop business’ is conducted.
- ‘Relevant pet shop’ business is defined as meaning a business that supplies dogs or offers to supply dogs, but does not include refuge operations, dog management facilities (pounds), or businesses of a prescribed class. The class of businesses prescribed will include dog breeders.
- ‘Refuge operations’ is defined as meaning operations conducted by a not-for-profit organisation for the purpose of providing temporary care, and finding suitable homes for, stray, abandoned, seized or surrendered dogs. Refuge operations will be able to apply to the CEO of the Department to get an approval to supply dogs to relevant pet shops businesses.
- ‘Supply’ is defined as including selling, trading, giving away, taking consideration for and agreeing to supply, or causing or permitting a supply.

Subclause (3) amends the definition of **CEO** to replace the reference to the ‘department of the Public Service principally assisting the Minister in the administration of this Act’, with ‘Department’. This is because a definition of **Department** has been inserted into the *Dog Act 1976* by clause 7. This reflects current drafting practice.

Subclause (4) amends the definition of **microchip database company** in section 3(1) of the *Dog Act 1976* by deleting the reference to ‘and its owner’ in paragraph (a) and replacing it with ‘(which may include information about its breeder or its owner)’.

This amendment ensures information recorded about a dog in the database can include information on its owner and breeder.

Subclause (5) amends the definition of ***microchip database company*** in section 3(1) of the *Dog Act 1976* by deleting the reference to ‘dog and its owner’ in paragraph (b) and replacing it with ‘dog’.

Subclause (6) amends the definition of ***transfer*** in section 3(1) of the *Dog Act 1976* by deleting the reference to ‘offer for sale’. A definition of ***supply*** is inserted by subclause (2) that refers to ‘offer for sale’.

Subclause (7) replaces the definition of ***sterilised*** in section 3(1) of the *Dog Act 1976*. The current definition of ***sterilised*** refers to a dog being made permanently infertile by a surgical procedure. This clause inserts a new definition that removes the reference to a ‘surgical procedure’. This allows for advances in veterinary medicine whereby an animal may be rendered permanently infertile by means other than a surgical procedure.

Subclause (8) deletes section 3(2) of the *Dog Act 1976* and inserts a new subsection (2). This is a consequential amendment to delete the reference to a local government’s dog register and update the reference to refer to the centralised registration system.

### ***Clause 8 – Section 7 amended***

This section requires that dogs need to be registered.

Subclause (1) is a drafting improvement which shows that the penalty only applies to that subsection.

Subclause (2) amends a reference to the Royal Society for the Prevention of Cruelty to Animals Western Australia to ensure it is accurately referenced in the Act.

### ***Clause 9 – Section 9 amended***

Section 9 currently specifies that local governments are responsible for the administration and enforcement of the *Dog Act 1976* in their district.

This clause makes amendments to the *Dog Act 1976* to account for the inclusion of functions to be performed by the CEO.

Subclause (1) causes the current text in section 9 of the *Dog Act 1976* to become subsection (1).

Subsection (2) provides that nothing in subsection (1) prevents the CEO of the Department from performing any functions under the Act or doing anything under the Act that allows the CEO to perform their functions.

This ensures that the CEO has the power to perform functions under the *Dog Act 1976* despite the local government being primarily responsible for the administration and enforcement of the *Dog Act 1976*.

### ***Clause 10 – Sections 9A and 9B inserted***

#### **Section 9A Delegation by CEO**

This new section allows the CEO to appoint persons to perform duties of the CEO on behalf of the CEO. For example, it will allow the CEO to delegate their duty to establish and maintain the centralised registration system to another person.

Subsection (1) provides that the CEO may delegate any function of the CEO under the Act.

Subsection (2) requires the delegation to be in writing signed by the CEO.

Subsection (3) provides that a person with a delegated function cannot delegated that function.

Subsection (4) provides that a person performing a delegated function is required to do so in accordance with the terms of the delegation.

Subsection (5) provides that nothing in the section limits the ability for the CEO to perform a function through an officer or agent.

#### **Section 9B Designated persons**

This allows the CEO to appoint persons to perform functions under the Act. This enables the CEO to perform their duties, such as to investigate whether the CEO should approve a dog supply application.

Subsection (1) provides that the CEO may appoint a person to perform the functions of a ***designated person***. The appointment must be in writing.

Subsection (2) provides that an authorisation may limit the functions of the designated person or be cancelled by the CEO at any time.

Subsection (3) requires the CEO to issue each designated person a certificate identifying them as a designated person.

Subsection (4) requires the designated person to provide the certificate if a reasonable request is made.

### ***Clause 11 – Section 10 amended***

This clause updates the clause reference to section 9(1).

### **Clause 12 – Section 12A amended**

This section provides that an authorised person may enter and inspect premises with the authority of a warrant for any purpose relating to the enforcement of this Act.

Subsection (2) is being amended to provide that in addition to an authorised person, a designated person, or other person named in the warrant, may enter and inspect premises if they have a warrant.

This subsection also states that an authorised person or designated person may enter and inspect premises with the consent of the occupier of the premises (provided the occupier has reached 18 years of age) if entry relates to the administration or enforcement of the Act.

Clause 12 inserts subsection (2A) which provides that the cancellation of an approval to breed, a pet shop approval or a dog supply approval are purposes relating to the administration and enforcement of the *Dog Act 1976*.

### **Clause 13 – Sections 13A and 13B inserted**

Clause 13 inserts sections that relate to the centralised registration system.

#### **Section 13A Centralised registration system**

New section 13A provides for the establishment and maintenance of a centralised registration system.

Subsection (1) provides that it is the responsibility of the CEO of the Department to establish and maintain the centralised registration system.

Subsection (2) provides that both the CEO and each local government have responsibility for recording data in the registration system and ensuring that it is accurate and kept up-to-date. The information that must be recorded in the system will be prescribed in regulations. The type of information to be prescribed will be information relating to an application made under the *Dog Act 1976*.

Subsection (3) provides that errors and omissions in the centralised registration system can be corrected by the CEO or a local government.

Subsection (4) ensures that existing provisions in the Dog Act can be undertaken by means of the centralised registration system.

Subsection (5) provides that regulations may be made to deal with any matters relating to the centralised registration system, including its establishment, maintenance and accessibility. Section 54 is the regulation making power in the Dog Act.

Subsection (6) allows for a single centralised registration system to be used for the purposes of both the *Dog Act 1976* and *Cat Act 2011*.

## **Section 13B Dog owner numbers**

This section introduces the ability for regulations to be made under section 54 for the purpose of establishing a **dog owner number**.

Subsection (1) provides for regulations to deal with the issuance of a unique number (dog owner number) for a person who owns, or has previously, owned a dog. This will allow for the traceability of dogs back to particular individuals.

Subsection (2) provides that the regulations may deal with any matter relating to dog owner numbers, including requiring a person to have a dog owner number before transfer of ownership. This will ensure that an owner has a dog owner number which can be placed in advertisements for the sale or transfer of a dog.

### ***Clause 14 – Section 14 replaced***

The current section requires local governments to maintain their own register of dog registrations in their district. This clause deletes and replaces section 14 as a consequence of the introduction of the centralised registration system.

## **Section 14 Local governments to keep record of registered dogs in centralised registration system**

Subsection (1) makes it a requirement for local governments to maintain a record of dogs they register in the centralised registration system.

Subsection (2) requires a local government to record information in the centralised registration system that is set out in regulations and relates to:

- (a) dogs registered by the local government; and
- (b) dog registration applications or renewals that have been refused by the local government.

### ***Clause 15 – Section 15 amended***

Section 15 of the *Dog Act 1976* specifies the registration periods and fees for dog registration in WA. This clause introduces a limit on the registration period for unsterilised dogs.

Subclauses (1) and (2) give effect to the requirement that a dog that is not sterilised will only be able to be registered for 12 months. Three year and lifetime registration options will only be available for dogs that are sterilised.

### ***Clause 16 – Section 16 amended***

Subclause (1) amends section 16(1) of the *Dog Act 1976* by requiring a person to make an application for dog registration in the manner and form approved by the CEO of the Department.

This amendment replaces the current requirement under section 16(1) for a person to make an application for dog registration in the prescribed form and deliver it to the office of the local government or some other place approved by the local government.

This will allow dog owners to make an online application for dog registration.

Subclause (2)(a) amends section 16(1BA) by replacing the reference to ‘prescribed’ with a reference to ‘approved’. This reflects current drafting practice whereby forms will not be prescribed in regulations.

Subclause (2)(b) inserts paragraph (aa) into section 16(1BA) to require that an applicant is to provide the dog owner number of the dog’s owner, if such a number has been issued to that owner, a dog registration application form.

Subclause (2)(c) inserts the requirement that a dog registration application form shall require the applicant to:

- (a) make a statement as to whether the dog is sterilised, and if the dog is not sterilised, a statement as to the basis for why the dog is not required to be sterilised under the Act; and
- (b) provide details of the dog’s previous owner, including the previous owner’s dog owner number or pet shop number, if known.

Subclause (2)(d) inserts the requirement that a dog registration application form shall require the applicant to provide a statement as to whether the owner of the dog holds an approval to breed and whether the owner is subject to an order banning them from owning or keeping a dog.

Subclause (3) reflects current drafting practice of reforming forms from regulations and replacing them with approved forms.

Subclause (4) makes consequential amendments to account for the establishment of the centralised registration system. These amendments require a registration officer of a local government to enter dog registration information into the centralised registration system.

Subclause (5) provides that a local government may direct a registration officer to refuse a dog registration application or renewal, or to cancel a dog registration, if the dog is required to be sterilised and is not sterilised.

### ***Clause 17 – Section 16A amended***

Subclause (1) deletes and replaces section 16A(1) of the *Dog Act 1976*.

New section 16A(1) provides that the registered owner of a dog must update the local government of the transfer of the dog to another person in the manner and form approved by the CEO of the Department, and provide the name and address of the

new owner and the dog owner number of the new owner if they have been issued with one.

Subclause (2) reflects changes made to introduce a centralised registration system.

***Clause 18 – Section 17A amended***

Section 17A provides for the situation that the local government cannot register a dog on various grounds. The sections states that a written notice given to the owner outlining the grounds must include advice on the owner's right to apply for a review of the decision.

Subclause (1) is a consequential drafting change amending the reference to a section.

Subclause (2) provides a further ground being that the dog is not sterilised but is required to be under the Act.

***Clause 19 – Section 20 amended***

Section 20 provides for offences relating to registration.

Subclause (1) deletes section 20(1)(b) of the *Dog Act 1976*. Clause 31 of this Bill inserts an equivalent provision.

Subclause (2) is a drafting improvement which shows that the penalty only applies to that subsection.

Subclause (3) deletes section 20(2). Clause 22 of this Bill inserts section 26F which is an equivalent provision.

***Clause 20 – Section 25 amended***

Section 25 provides that a microchip database company must keep and maintain information in its database.

The amendment to clause 20 clarifies that the company can only keep and maintain information that it has been given.

***Clause 21 – Section 26D replaced***

Clause 21 deletes and replaces section 26D of the *Dog Act 1976*:

***Section 26D Notice of change to recorded information***

Section 26D is amended to require a dog owner to notify the local government and microchip database company within 7 days of any changes to information required under sections 14(2)(a) (centralised registration system) and 24 (microchip database).

The penalty for not complying is a fine of \$5,000.

## **Clause 22 – Part IV inserted**

Clause 22 inserts Part IV into the *Dog Act 1976*:

### **Part IV – Sterilisation and breeding of dogs**

#### **Division 1 – Requirement for sterilisation**

##### **Section 26E Dogs must be sterilised unless exempt**

Subsection (1) requires that an owner of a dog that has reached the age set in regulations must ensure that the dog has been sterilised by a veterinarian, unless the dog is exempt under subsection (3). The prescribed age of a dog is proposed to be two (2) years of age.

The penalty for not complying with subsection (1) is a fine of \$5,000.

Subsection (2) specifies that if an unsterilised dog is transferred to a new owner, the new owner does not need to comply with subsection (1) until a prescribed period after the dog is transferred. This will enable the new owner time to arrange sterilisation.

Subsection (3) specifies the circumstances in which a dog will be exempt from the requirement to be sterilised under subsection (1). Exemptions include:

- (a) dogs registered under the *Dog Act 1976* or an equivalent Act in another State or Territory before the commencement of these sterilisation requirements;
- (b) dogs that have been issued with a certificate by a veterinarian stating that sterilisation will adversely affect the health or welfare of the dog;
- (c) dogs that are owned by a person who holds an approval to breed;
- (d) greyhounds that are registered under section 41 of the *Racing and Wagering Western Australia Act 2003* while the registration is in effect;
- (e) dogs that are sterile; and
- (f) dogs that belong to a prescribed class of dogs.

The prescribed class of dogs will include livestock working dogs. These dogs are required to remain unsterilised so that their working ability can be assessed before their owner can determine if such a dog should be bred.

Subsection (4) specifies that a certificate supplied by a veterinarian under section 26E(3)(b) must include the period for which the exemption applies.

Subsection (5) clarifies that the section does not apply to a dangerous dog. Provisions regarding the sterilisation of dangerous dogs currently exist under the *Dog Act 1976*.

##### **Section 26F Unsterilised dog must not be identified as sterilised**

Section 26F makes it an offence for a person to identify a dog as sterilised in the manner prescribed if the dog is not sterilised. The *Dog Regulations 2013* currently

specify that a dog may be identified as being sterilised by a tattoo applied in the dog's ear.

The penalty for contravening this section is a fine of \$5,000.

### **Section 26G Certificate of sterilisation to be given**

Section 26G makes it a requirement for a veterinarian to issue a sterilisation certificate to a dog owner whose dog they have sterilised.

The penalty for contravening this section is a fine of \$5,000.

### **Section 26H Information that must be included in advertising material for dog and given to new owner**

Subsections (1) and (2) make it a requirement for a person to provide their dog owner number and any other information to be detailed in regulations when offering a dog for sale, or advertising a dog, or transferring a dog. No information will be prescribed initially.

The penalty for contravening this section is a fine of \$5,000.

These provisions ensure dog suppliers and breeders can be identified and ensures dog ownership can be traced.

Subsection (3) specifies that the requirements to provide information when offering a dog for sale, or advertising a dog, or transferring a dog do not apply to greyhounds registered under section 41 of the *Racing and Wagering Western Australia Act 2003* while the registration is in effect.

## **Division 2 – Breeding of dogs**

### **Section 26I Only holder of approval may breed dogs**

Subsection (1) requires that the owner of a dog who does not hold an approval to breed granted by the local government ensure that the dog does not give birth.

The penalty for committing an offence under subsection (1) is \$5,000.

Subsection (2) provides that a person does not commit an offence under subsection (1) if:

- (a) approval to breed is granted by the local government after the dog gives birth, and
- (b) an application for an approval to breed is made within 7 days after the day the dog gives birth.

This allows the owner of a dog that has given birth 7 days to apply for an approval to breed if they do not have one.

Subsection (3) specifies that:

- (a) greyhounds registered under section 41 of the *Racing and Wagering Western Australia Act 2003* are exempt from subsection (1) whilst the registration is in effect; and
- (b) Dogs that belong to a prescribed class of dogs are exempt from subsection (1).

A class of dogs will not be prescribed initially, but the power will exist in the event that an exemption is required for a specific class of dogs.

Subsection (4) provides that it is a defence if a person honestly and reasonably believes the dog was sterilised or sterile.

### **Subsection 26J Court may order sterilisation**

Subsection (1) allows a court to order that dogs owned by a person that commits an offence under section 26I(1) be sterilised. This will allow authorities to prevent non-compliant dog breeders from continuing to breed dogs.

Subsection (2) requires that a copy of the court order issued under subsection (1) is to be sent to the relevant local government.

The court order issued under subsection (1) can be enforced as if it were a judgement of the court.

### **Section 26K Application for approval to breed**

This section provides that an owner can apply for the grant of an approval to breed dogs to the local government in the district where the dog is ordinarily kept.

Subsection (2) requires that the application must be made in accordance with Part X Division 2.

### **Section 26L Approval to breed**

Subsection (1) allows a local government to grant, or refuse to grant, an approval to breed.

Subsection (2) specifies the grounds on which a local government can refuse to grant an approval to breed:

- (a) If the applicant is under 18 years of age; or
- (b) If the applicant is a convicted person; or
- (c) If the applicant does not have sufficient facilities, or access to sufficient facilities, to breed dogs in accordance with any standards under the *Animal Welfare Act 2002* or any other written law; or
- (d) If the applicant is not a fit or proper person to breed dogs; or

- (e) if a circumstance prescribed applies. There will be no circumstances prescribed initially; however, this power will ensure any further circumstances can be specified if required.

Subsections (3) and (4) give a local government the power to grant an approval to breed subject to conditions, and the power to amend or revoke conditions, or impose new conditions at any time.

Under subsection (5), an approval to breed remains in effect, unless cancelled under section 26M.

### **Section 26M Cancellation of approval to breed**

Section 26M specifies that an approval to breed can be cancelled, if:

- (a) the local government is satisfied that any of the circumstances under section 26L(2) applies to the holder of an approval to breed;
- (b) the person has not complied with a condition imposed on the approval;
- (c) the person no longer keeps any dogs in the local government district;
- (d) the person who holds the approval to breed has not complied with a requirement under the *Dog Act 1976* or *Animal Welfare Act 2002*; or
- (e) a circumstance prescribed.

In accordance with 26M(c), a person will be required to obtain a new approval to breed from their new local government if they move local government districts. This ensures that a local government has oversight of any potential puppy farms.

### **Clause 23 – Section 27 amended**

Subclause (1) is a drafting improvement which shows that the penalty only applies to that subsection.

Subclause (2) deletes the reference to ‘the prescribed manner and form’ and replaces it with ‘a manner and form approved by the local government’. This is to account for the current practice whereby local governments set their own form. The current *Dog Regulations 2013* do not prescribe a form in accordance with the current section 20(2).

### **Clause 24 – Section 29 amended**

Section 29 of the *Dog Act 1976* provides for the appointment of authorised persons, seizure of dogs (including under a warrant) and actions to be taken when a dog is detained.

Subclause (1) inserts paragraph (caa) into section 29(3) of the *Dog Act 1976* which allows an authorised person to seize, detain and pursue a dog that is not sterilised and should be sterilised.

Subclause (2) inserts a new provision to allow an authorised person to enter any premises and seize and detain an unsterilised dog if:

- (a) the entry is pursuant to a warrant; or
- (b) the occupier of the premises has reached 18 years of age and consents to the entry.

Subclause (3) is an update to reflect current drafting practice.

Subclause (4) inserts a power to enable a Justice of the Peace the ability to issue a warrant to an authorised person to enter premises and detain a dog if there are reasonable grounds to believe a dog should be sterilised under the Act but is not sterilised.

Subclause (5) updates relevant clause references in the *Dog Act 1976* as a result of amendments made by this Bill.

#### ***Clause 25 – Section 30A amended***

Section 30A of the *Dog Act 1976* currently provides that the operator of a dog management facility may have a dog microchipped at the owner's expense. This section is being updated to extend the power to also being able to sterilise a dog.

Subclause (1) removes a superfluous provision as the operator must believe that the dog is required to be microchipped.

Subclause (2) introduces new subsections to allow an operator of a dog management facility (pound) to sterilise a dog before the dog is reclaimed or otherwise transferred from the facility.

In accordance with subsection (1A), the operator can only cause the dog to be sterilised if the owner of the dog consents to the sterilisation or the operator believes on reasonable grounds that the dog is not sterilised and is required to be sterilised under the Act. The operator must give notice to the owner of the dog under subsection (1B) before causing the dog to be sterilised.

Subsection (1B) provides that where a dog is being kept at a dog management facility and the operator proposes to sterilise the dog, the operator must give notice to the dog's owner of their proposal to sterilise the dog, and invite the owner to make any submission to the operator within seven (7) days as to why the dog is not required to be sterilised under the Act.

Under subsection (2), the operator of a dog management facility is able to recover the costs of sterilising or microchipping from the dog's owner.

The heading of section 30A is amended to include a reference to sterilisation – 'Operator of a dog management facility may have dog microchipped or sterilised at owner's expense'.

### **Clause 26 – Section 30 amended**

Subclause (1) is a drafting improvement which shows that the penalty only applies to that subsection.

Subclause (2) is a drafting correction.

### **Clause 27 – Section 33A amended**

Section 33A of the *Dog Act 1976* provides for the control of dogs in places that are not public.

Subclause 33A(1) removes the reference to ‘pet shop’ in subsection 33A(2)(a). This means that a dog cannot be in a pet shop unless the occupier, or person apparently authorised to consent on behalf of the occupier, consents.

Subclause (2) is a drafting improvement which shows that the penalty only applies to that subsection.

### **Clause 28 – Section 33K amended**

Section 33K of the *Dog Act 1976* provides for restrictions on transferring ownership of dangerous dogs (restricted breeds).

Subclauses 28(1), (2), (3), (5), (7) and (8) are drafting improvements which show that the penalty only applies to that subsection.

Subclauses (4) and (6) delete the reference to ‘transferred –’ in subsections 33K(4) and (5A) and replace it with ‘transferred, in addition to the information referred to in section 26H(2) –’. This refers to the requirements to provide certain information when transferring a dog that is inserted by clause 22 of this Bill.

### **Clause 29 – Section 34 amended**

Clause 29 is a drafting improvement which shows that the penalty only applies to that subsection.

### **Clause 30 – Part VIA inserted**

Clause 30 inserts Part VIA into the *Dog Act 1976*:

#### **Part VIA – Pet shops and supply of dogs to relevant pet shop businesses**

##### **Division 1 – Preliminary**

#### **Section 38A Supply of dogs to relevant pet shop businesses**

Section 38A provides that a person supplies a dog to a relevant pet shop business, if:

- (a) a person supplies a dog to a person who conducts a relevant pet shop business (or a person acting on their behalf); and
- (b) and the supply is for the purposes of the relevant pet shop business.

## **Division 2 – Approval of pet shop for relevant pet shop business**

### **Section 38B Pet shop for relevant pet shop business must be approved**

Section 38B requires that a person conducting a relevant pet shop business must hold a pet shop approval. The pet shop approval must be granted by the local government in which the pet shop is located.

The penalty for not complying with section 38B is a fine of \$10,000.

### **Section 38C Application for pet shop approval**

Subsection 38C(1) specifies that a person who intends to conduct a relevant pet shop business may apply to the local government in which the pet shop is located for the grant of a pet shop approval or renewal of a pet shop approval.

Subsection (2) specifies that the application must be made in accordance with Part X Division 2 which is being inserted into the Act by clause 40 of this Bill.

### **Section 38D Pet shop approval**

Subsection (1) allows a local government to grant, refuse to grant, renew, or refuse to renew an application for a pet shop approval.

Subsection (2) specifies the grounds on which a local government can refuse to grant or refuse to renew a pet shop approval. These are:

- (a) the applicant, in the previous five years, has been convicted of an offence against the Dog Act, the *Cat Act 2011*, the *Animal Welfare Act 2002* or a law elsewhere in Australia that is substantially similar;
- (b) in the case of renewal, if one of the circumstances specified in section 38E(c), (d), (e) or (f) applies which relate to cancellation of a pet shop approval (see next section);
- (c) the facilities that the applicant proposes to use do not meet the requirements of any relevant written law. This will include regulations under the *Animal Welfare Act 2002* that relate to the keeping and housing of dogs; and
- (d) a circumstance prescribed applies. There will be no circumstances prescribed initially; however, this power will ensure any further circumstances can be specified if required.

Subsections (3) and (4) give a local government the power to grant a pet shop approval subject to conditions, and the power to amend or revoke conditions, or impose new conditions at any time.

Under subsection (5), a pet shop approval has effect for one (1) year from when it is granted, unless it is cancelled in accordance with section 38E.

## **Section 38E Cancellation of pet shop approval**

Section 38E specifies the circumstances in which a local government may cancel a pet shop approval, including if:

- (a) the local government is satisfied section 38D(2)(a), (c) or (d) above applies; or
- (b) the person who holds the approval does not need the approval; or
- (c) the person who holds the approval has not complied with a condition of the approval; or
- (d) the person has not complied with a requirement under the *Dog Act 1976* or *Animal Welfare Act 2002*; or
- (e) the pet shop to which the approval relates has been the subject of a contravention of the *Dog Act 1976* or *Animal Welfare Act 2002*; or
- (f) a circumstance prescribed applies. There will be no circumstances prescribed initially, however this power will ensure any further circumstances can be specified if required.

## **Section 38F Continuation of pet shop approval until application for renewal decided**

Section 38F contemplates a situation whereby a pet shop applies to renew their application, but the local government has not advised of the outcome of the application before the expiry of the existing approval.

In accordance with subclause (2), the pet shop approval will continue to have effect until the local government has renewed the approval or provided notice to the pet shop of their decision to refuse to renew.

## **Division 3 – Obligations of person conducting relevant pet shop business**

### **Section 38G Relevant pet shop business only to supply dogs obtained from holder of dog supply approval**

Section 38G makes it an offence for a pet shop to supply or offer for supply a dog, unless the dog has been sourced from a person that holds a dog supply approval. A dog supply approval can be obtained by a refuge operation or dog management facility under section 38O.

The penalty for contravening section 38G is a fine of \$10,000.

### **Section 38H Pet shop to display certificate of registration**

Section 38H requires a relevant pet shop business to display their pet shop certificate publicly at their pet shop.

The penalty for contravening this section is a fine of \$5,000.

### **Section 38I Person conducting relevant pet shop business to provide certain information**

This section requires that a person conducting a relevant pet shop business must provide any person who is being supplied with, or on request offered a dog, the pet shop number and the prescribed information about the person that supplied the dog to the relevant pet shop business.

The penalty for contravening this section is a fine of \$5,000.

### **Section 38J Person conducting relevant pet shop business to provide copy of health certificate**

A person who is being supplied with a dog from a relevant pet shop business or , on request, offered the supply of a dog from a relevant pet shop business, must be provided with a copy of the health certificate for the dog.

The penalty for contravening this section is a fine of \$5,000.

### **Section 38K Person conducting relevant pet shop business to keep records relating to source of dogs**

This section requires a person who conducts a relevant pet shop business to keep records to ensure there is transparency around the source of dogs supplied by pet shops.

Subclause (1) defines a relevant dog as being one which is kept, supplied or offered for supply in the course of the relevant pet shop business.

Subclause (2) provides that the person who conducts the business must keep for each relevant dog information to be set out in regulations, including information on the source of the dog and evidence to enable this information to be verified.

Subclause (3) provides that the records must be kept in the prescribed way for five (5) years regardless of whether the relevant pet shop business continues to operate or not. The prescribed way in which records must be kept will be determined in consultation with relevant pet shop businesses.

Subclause (4) allows for regulations to be made which would set the time within which these records must be made and requires the relevant pet shop business to comply with that time.

Subclause (5) makes it an offence if a person does not comply with this section. The penalty for contravention is a fine of \$5,000.

## **Section 38L Person conducting relevant pet shop business to provide information to local government**

This section requires a person conducting a pet shop business to provide information to the local government. This will enable a local government to investigate where pet shops are sourcing their dogs to ensure compliance with section 38G.

Subsection (1) allows a local government to request the information kept under section 38K by a person who conducts a relevant pet shop business.

Subsection (2) provides that a local government can take extracts and make copies of the information or evidence provided.

Subsection (3) requires that a local government must specify a period of time within which the information or evidence must be provided.

Subsection (4) makes it an offence for failing to comply with a request for information within the time specified or another time if agreed by the local government and that person. The penalty for contravening this section is a fine of \$10,000.

## **Section 38M Self-incrimination**

This section specifies that a person is not excused from complying with a request for information under section 38L if the provision of such information might incriminate the person or make the person liable to a penalty.

Subsection (2) limits the use of the information, however, in that it cannot be used as evidence in any proceedings other than proceedings for an offence against the Dog Act or proceedings related to the false or misleading nature of the information.

## **Division 4 – Dog supply approval**

### **Section 38N Only holder of dog supply approval may supply dogs to relevant pet shop businesses**

Subsection (1) specifies that a person must not supply a dog to a relevant pet shop business unless:

- (a) the dog they supply is a stray, abandoned, seized or surrendered dog that is being kept –
  - i) as part of refuge operations conducted by the supplier; or
  - ii) in a dog management facility (pound); and
- (b) they hold a dog supply approval.

The penalty for contravening subsection (1) is a fine of \$10,000.

Subsection (2) specifies that a person must not supply a dog to a relevant pet shop business unless they obtain a health certificate from a veterinarian that outlines

prescribed information in respect to the dog's health, and they provide that health certificate to the relevant pet shop business.

The penalty for contravening subsection (2) is a fine of \$5,000.

### **Section 38O Person conducting refuge operations or operating dog management facility may apply for dog supply approval**

Subsection (1) specifies that a person who conducts refuge operations or operates a dog management facility may apply to the CEO of the Department for the grant of an approval to supply dogs to relevant pet shop businesses (a **dog supply approval**). The dogs supplied must be kept as part of the refuge operations or in the dog management facility.

Subsection (2) specifies the way an application for a dog supply approval can be made. The application must:

- (a) be in the manner and form approved by the CEO of the Department; and
- (b) contain the information prescribed; and
- (c) contain information regarding the intended source of dogs to be supplied; and
- (d) be accompanied by the relevant fee prescribed, if any; and
- (e) comply with any prescribed requirements.

Information to be prescribed will include information on the applicant and the operations of the organisation.

A fee will not be prescribed initially. If, in the future, there is great up-take by refuge operations and dog management facilities, a small fee may be prescribed to contribute to the costs of processing the applications.

Subsection (3) gives the CEO of the Department the power to require further information from the applicant to determine the application, and the power to require the applicant verify information by statutory declaration.

Subsection (4) provides the CEO of the Department with the power to refuse to consider an application if an applicant does not comply with a request under subsection (3).

### **Section 38P Dog supply approval**

Subsection (1) requires the CEO of the Department to grant, or refuse to grant, a dog supply approval.

Subsection (2) specifies the grounds on which the CEO can refuse to grant a dog supply approval as being:

- (a) if the applicant, in the previous five years, has been convicted of an offence against the Dog Act, the *Cat Act 2011*, the *Animal Welfare Act 2002* or a law elsewhere in Australia that is substantially similar; or
- (b) if there are reasonable grounds to suspect that the applicant is not conducting genuine refuge operations when they purport to do so;
- (c) the facilities do not meet the requirements of any relevant written law. This will capture the requirement to comply with regulations on the keeping and housing of dogs under the *Animal Welfare Act 2002*, or
- (d) a local government objects to the grant of the approval; or
- (e) if a circumstance prescribed applies. There will be no circumstances prescribed initially, however this power will ensure any further circumstances can be specified if required.

Paragraph (b) is intended to ensure pet shops do not set up ‘refuge operations’ as a front for sourcing dogs from dog breeders or puppy farmers.

Subsections (3) and (4) gives the CEO the power to grant a dog supply approval subject to conditions, and the power to amend or revoke conditions, or impose new conditions at any time.

Under subsection (5), a dog supply approval remains in force unless it is cancelled in accordance with section 38Q.

### **Section 38Q Cancellation of dog supply approval**

Section 38Q specifies the circumstances in which the CEO may cancel a dog supply approval, being that the person has requested cancellation or:

- (a) the CEO is satisfied section 38P(2) applies (the grounds for refusing an approval); or
- (b) the person who holds the approval does not need the approval; or
- (c) the person has not complied with a condition of the approval; or
- (d) the person has supplied a dog that the CEO suspects on reasonable grounds is not a stray, abandoned, seized or surrendered dog; or
- (e) the person has not complied with a requirement under the *Dog Act 1976* or *Animal Welfare Act 2002*; or
- (f) the refuge operations or dog management facility to which the approval relates has been the subject of a contravention of the *Dog Act 1976* or *Animal Welfare Act 2002*; or
- (g) a circumstance prescribed applies. There will be no circumstances prescribed initially; however, this power will ensure any further circumstances can be specified if required.

### **Section 38R Notice of certain decisions made under this Division**

New section 38R requires the CEO of the Department to give written notice of their decisions in relation to dog supply approvals.

Subsection (1) provides that the section applies to a decision to either refuse to grant or cancel a dog supply approval or to impose or amend conditions on a dog supply approval.

Subsection (2) requires the CEO to give written notice to an applicant within seven (7) days of making a decision under subsection (1).

Subsection (3) provides that the regulations may provide for the review by the State Administrative Tribunal of a decision of the CEO referred to in subsection (1). The regulations may also provide that a decision will be suspended whilst a right of review exists or a review is underway.

### **Section 38S Record of dog supply approval**

Subsection (1) of new section 38S requires the CEO to record their decision regarding an application for a dog supply approval in the centralised registration system.

Subsection (2) also requires the CEO to update the centralised registration system if there is:

- (a) any change to the information notified under section 38T (see below);
- (b) any change to the conditions of a dog supply approval, including the imposition of new conditions;
- (c) any cancellation of a dog supply approval; or
- (d) the outcome of any review provided for under section 38R(3).

### **Section 38T Notice of change to information**

This section requires a holder of a dog supply approval to give notice in writing to the CEO of any changes to information prescribed under section 38S(1) within seven (7) days of the change of the information.

The penalty for contravening this section is a fine of \$5,000.

### **Division 5 – Obligations of holder of dog supply approval**

#### **Section 38U Holder of dog supply approval to keep records**

The section requires that a person who holds a dog supply approval must keep records to ensure there is transparency around the source of dogs supplied to pet shops.

Subsection (1) requires that a person must keep prescribed information about the source and history of a dog supplied to a relevant pet shop business.

Subsection (2) provides that records must be kept in the prescribed way for five (5) years, regardless of whether the person ceases to hold a dog supply approval. The prescribed way in which records must be kept will be determined in consultation with relevant refuge operations and dog management facilities.

Subsection (3) requires the person who holds a dog supply approval to make the record within a set period if one is set in regulations.

A person that does not comply with this section commits an offence. The penalty for contravening this section is a fine of \$5,000.

### **Section 38V Holder of dog supply approval to provide information to CEO**

This section requires a person with a dog supply approval to provide information to the CEO of the Department to enable the CEO to make informed decisions.

Subsection (1) provides that the CEO may request, and be supplied with, the information kept by a person who holds a dog supply approval as required under section 38U or any other information that the CEO requires to determine if the dog supply approval should remain in force.

Subsection (2) provides that the CEO can take extracts and make copies of the information provided.

Subsection (3) requires that the CEO specify a period of time within which the information must be provided.

Subsection (4) makes it an offence for failing to comply with a request for information within the time specified or another time if agreed by both parties. The penalty for contravening this section is a fine of \$5,000.

### **Section 38W Holder of dog supply approval to provide information to local government**

This section allows a local government to request information from a holder of a dog supply approval where the holder of the dog supply approval supplies dogs to a relevant pet shop business that is within the district of the local government.

This section will assist a local government to investigate the source of dogs kept by relevant pet shop businesses by confirming that the pet shop is sourcing from a holder of a dog supply approval. The local government can also ensure health certificates are being provided for each animal supplied to a relevant pet shop business which must then be supplied to new owners.

Subsection (1) defines **applicable pet shop business** as a pet shop that is located in the local government's district.

Subsection (2) provides that a local government can request information from a person that holds or has held a dog supply approval or purports to hold or have held such an approval. The information that a local government can request is:

- (a) evidence that they hold or have held a dog supply approval; and

- (b) a copy of the health certificate of any dog supplied to a pet shop in the previous five years or since they were granted the dog supply approval if more recent.

Subsection (3) allows the local government to take extracts from or make copies of the material provided.

Subsection (4) requires that the local government must specify a period of time within which information must be provided.

Under subsection (5), a holder of a dog supply approval or a person that has held a dog supply approval must comply with a request for information by a local government within the time specified or another time if agreed by both parties. The penalty for contravening this subsection is a fine of \$5,000.

### **Section 38X Self-incrimination**

Subsection (1) specifies that a person is not excused from complying with a request for information under the Act if the provision of such information might incriminate the person or make the person liable to a penalty.

Subsection (2) limits the use of the information to proceedings for an offence against the Dog Act or proceedings related to the false or misleading nature of the information.

### ***Clause 31 – Section 43AA inserted***

Clause 31 inserts section 43AA into the *Dog Act 1976*:

### **Section 43AA False or misleading information**

This new section ensures there is a penalty for people that knowingly provide inaccurate or incorrect information relied upon by relevant authorities.

Subsections (1) and (2) provides that a person must not:

- (a) make a statement or give information that the person knows is false or misleading in a material particular; or
- (b) omit anything without which the statement or information is, to the person's knowledge, misleading in a material particular;

in connection with:

- (a) an application for an approval made under the Act;
- (b) a notice or document given under this Act;
- (c) dealing with a person who is performing a function under this Act; or
- (d) compliance, or purported compliance, with a requirement under this Act.

The penalty for contravening this section is a fine of \$5,000.

### **Clause 32 – Section 43A amended**

This clause ensures that relevant authorities can accurately identify a person who is committing or potentially committing an offence under the Act so they can be prosecuted or issued with an infringement.

Subsection (1) inserts a definition of **relevant person** that applies to section 43A only.

‘Relevant person’ is an authorised person or a designated person, who is defined under section 9B to be the CEO of the Department and persons authorised by them.

Subclause (2) replaces the current text in subsection 43A(2) (excluding the penalty) , which requires a person to provide their full name, date of birth and residential address to a relevant person upon demand if the relevant person alleges that the person is concerned in the commission of an offence against the *Dog Act 1976*.

Subclause (3) is a drafting improvement which shows that the penalty only applies to that subsection.

### **Clause 33 – Section 43B inserted**

This new section ensures relevant authorities have the power to investigate instances of non-compliance under the Act and gather evidence relevant to that non-compliance.

### **Section 43B General powers of relevant person**

This section allows a relevant person (being an authorised person, the CEO or a designated person) to do any of the following things in any premises lawfully entered for the purpose of investigating an offence being committed against the Act or to investigate if an approval to breed, pet shop approval or dog supply approval should be cancelled:

- (a) examine, seize, copy or take extracts from a document;
- (b) take photographs, films and audio, video or other recordings;
- (c) direct a person to answer questions;
- (d) examine, including by scanning, a dog;
- (e) take any other action that the relevant person believes, on reasonable grounds, is necessary.

### **Clause 34 – Section 44 amended**

This section is amended to provide that the CEO and a designated person can bring proceedings under the Act.

Subclause (1) provides that the CEO or a designated person to take proceedings under the Act, whether civil or penal.

Subclause (2) amends section 44(3) and specifies that no proof is required to prove that an employee of a local government, the CEO or a designated person is authorised

to take proceedings, but the averment (allegation or affirmation) that the person is so authorised is sufficient proof of the fact.

#### **Clause 35 – Section 45 amended**

Clause 35 amends section 45(1) to account for the fact that a dog's age is relevant under more than one provision of the Dog Act as a consequence of the amendments made by clause 22 of this Bill (requiring that a dog be sterilised by a prescribed age).

Clause 35 amends section 45(1) by:

- deleting the reference to '3 months of' in paragraph (a)(xii) and (xiii) and replacing it with 'a certain'; and
- deleting the reference to 'the age of 3 months' in paragraph (b) and replacing it with 'a certain age'.

The amendments made by this clause ensure that where an averment in a prosecution notice alleges that at a particular time a dog has reached a certain age or the dog is under a certain age, such an allegation is taken to be evidence of that fact.

#### **Clause 36 – Section 45A amended**

Clause 36 makes consequential amendments to section 45A(4) of the Dog Act to account for the fact that a designated person can also notify persons of a commission of an offence under the Act.

#### **Clause 37 – Part X heading replaced**

Clause 37 deletes the Part X heading in the *Dog Act 1976* (which is currently 'Part X – Regulations') and replaces it with 'Part X – Miscellaneous'.

#### **Clause 38 – Part X Division 1 heading inserted**

Clause 38 inserts a heading for Division 1 into Part X of the *Dog Act 1976*.

#### **Clause 39 – Section 54 amended**

Clause 39 inserts subsections (2C) and (2D) into section 54 of the *Dog Act 1976*.

The insertion of subsection 2C provides that regulations can be prepared to provide for various fees, including the reduction, waiver or refund of a fee or charge with this Act being treated as a new Act for the purposes of section 45 of the *Interpretation Act 1984*.

Subsection 2D allows regulations to specify how any notice, information or document required under the Dog Act is to be given, including by specifying that the centralised registration system is to be used.

#### **Clause 40 – Part X Division 2 inserted**

Clause 41 inserts Division 2 into Part X of the *Dog Act 1976*:

## **Division 2 – Local government approvals**

### **Subdivision 1 – Application for approval**

#### **Section 54A Applications**

Subsection (1) specifies the way an application for an approval to breed or a grant or renewal of a pet shop approval can be made. The application must:

- (a) be in the manner and form approved by the CEO of the Department; and
- (b) contain the information prescribed; and
- (c) be accompanied by the relevant fee prescribed, if any; and
- (d) comply with any prescribed requirements.

Information to be prescribed will include general information including the applicant's contact details and place of residence, and information related to the circumstances described under sections 26K (application for approval to breed) and 38D (pet shop approval).

A fee for both approvals will be prescribed in regulations. The fee for a cat breeder approval is currently \$100 per cat.

Prescribed requirements will include requirements that relate to complying with requirements under the *Dog Act 1976* and *Animal Welfare Act 2002*.

Subsection (2) gives the local government the power to require further information from the applicant when considering the application, and the power to require the applicant verify information by statutory declaration.

Subsection (3) provides the local government with the power to refuse to consider an application if an applicant does not comply with a request under subsection (2) within the time set.

#### **Section 54B Record of approval**

Subsection (1) requires the local government to record their decision regarding an application for an approval to breed or an application for or renewal of a pet shop approval in the centralised registration system.

Subsection (2) requires the local government to update the centralised registration system if there is:

- (a) Any change to the information notified under section 54C (below);
- (b) Any change to the conditions of an approval to breed or a pet shop approval, including the imposition of new conditions;
- (c) Any cancellation or expiry of an approval to breed or a pet shop approval;
- (d) The outcome of any objection or review under section 54G or 54H.

## **Section 54C Notice of change to information**

This section requires that a holder of an approval to breed or a pet shop approval must give notice in writing to the local government in whose district they are approved, of any changes to information prescribed under section 54B(1) within seven (7) days of the change of the information.

The penalty for contravening this section is a fine of \$5,000.

## **Section 54D Certificate and unique number to be given to holder of approval**

This new section requires information to be given to the holder of an approval to breed or a pet shop approval and this will provide evidence of such an approval.

Subsection (1) requires that a local government that grants an approval to breed or a pet shop approval must issue a certificate containing the prescribed information to the holder of the approval and issue a pet shop number to a holder of a pet shop approval.

In accordance with subsection (2), the local government must provide a certificate that contains the prescribed information if they renew a pet shop approval.

Subsection (3) allows a local government to issue a replacement certificate if a certificate has been stolen, lost, damaged or destroyed.

## **Subdivision 2 – Objection and review process**

### **Section 54E Notice of certain decisions made by local government**

Section 54E requires the local government to give written notice of the following decisions within seven (7) days of making the decision:

- a local government's decision to cancel or refuse to grant an approval to breed;
- a local government's decision to refuse to grant or renew or to cancel a pet shop approval;
- a local government's decision to impose or amend conditions on an approval to breed or a pet shop approval.

In accordance with subsection (2), the local government is required to include in their notice reasons for their decision and provide notice of a person's rights under sections 54F and 54H to lodge a written objection against the decision of the local government with the State Administrative Tribunal.

### **Section 54F Objection may be lodged**

This section allows a person to object to a decision of a local government.

In accordance with subsection (1), the person must make the objection in writing within 28 days after receiving a notice of a decision under section 54E.

Subsection (2) provides that the objection must be made in the form approved by the CEO of the Department and lodged with the local government in the manner determined by the local government.

In accordance with subsection (3), if a person applies for a review of the decision to the State Administrative Tribunal under section 54H, subsection (1) does not apply.

### **Section 54G Dealing with objection**

This section specifies how an objection made under section 54F is to be dealt with by the local government.

Subsection (1) stipulates that the objection is to be dealt with by the council or by a committee authorised by the council to deal with objections.

Subsection (2) specifies that a committee cannot deal with an objection against a decision made by either the committee or the council.

In accordance with subsection (3) a person is to be given reasonable opportunity to make submissions in relation to the objection under this section.

Subsection (4) provides that an objection can be disposed of by:

- (a) the objection being dismissed; or
- (b) the decision being varied; or
- (c) the decision being revoked or substituted.

Subsection (5) provides that the local government must notify the person that made the objection in writing of the outcome of how the objection has been decided, and the reasons for that decision.

### **Section 54H Review of decisions**

This section allows a person to apply to the State Administrative Tribunal for a review of a decision that is specified in a notice provided under section 54E (applications for approval to breed or pet shop approvals).

Under subsection (1), a person can only apply to the State Administrative Tribunal if:

- (a) they have *not* lodged an objection under 54F; or
- (b) they have lodged an objection under section 54F but 35 days have expired and they have not received notice of how the objection has been decided.

Under subsection (2), the application to the State Administrative Tribunal must be made:

- (a) in relation to subsection (1)(a), within 42 days of the person receiving notice under section 54E of a local government's decision;

- (b) in relation to subsection (1)(b), within 77 days of the person lodging the objection.

Under subsection (3), a person may apply to the State Administrative Tribunal for a review of a decision on an objection, within 42 days of receiving notice of the decision on an objection.

### **Section 54I Suspension of effect of some decisions**

This section provides that a decision made by the local government or the CEO of the Department is suspended until the State Administrative Tribunal (SAT) determines the application, or until the period for the decision to be objected to or appealed to the SAT expires.

In accordance with subsection (3), the SAT can order that the decision is not suspended during the objection period.

### ***Clause 41 – Part XI Division 1A inserted***

Clause 41 inserts Division 1A into Part XI of the *Dog Act 1976*:

### **Division 1A – Transitional provisions for the *Dog Amendment (Stop Puppy Farming) Act 2020***

### **Section 60A Transitional provision for centralised registration system**

The new section is inserted to provide the opportunity for the centralised registration system to be established, and operational, before the legislation takes effect. This will enable local governments the opportunity to transfer information to the new centralised registration system prior to commencement day.

Subsection (1) inserts the following definitions:

- **centralised registration system** which means the electronic database or system the Department CEO establishes and maintains when section 13 of the Amendment Act (clause 13 of this Bill) comes into operation.
- **commencement day** means the day in which section 13 of the Amendment Act (clause 13 of this Bill) comes into operation.

Subsection (2) provides that the CEO may establish and maintain the centralised registration system before the commencement day.

Paragraph (a) of subsection (2) allows the CEO to permit a local government to record information required to be recorded under the Dog Act in the centralised registration system before the commencement date.

Paragraph (b) of subsection (2) allows the CEO to permit information to be transferred from a local government register into the centralised registration system before the commencement date.

Subsection (3) provides that information recorded in the centralised registration system in accordance with subsection (2)(a) or (b), is information taken to be recorded on a register maintained by the local government for the purposes of the Dog Act.

#### **Clause 42 – Sections 60B to 60E inserted**

Clause 42 inserts section 60B to 60E into the *Dog Act 1976*.

#### **Section 60B Registered unsterilised dogs**

This section is a consequential amendment to reflect the change to the registration periods of unsterilised dogs. Currently unsterilised dogs can be registered for an annual, three-year, or lifetime period under section 15 of the *Dog Act 1976*. Clause 15 amends section 15 so that unsterilised dogs can only be registered for an annual period.

Subsection (1) defines **commencement day** as meaning the day on which section 15 (being clause 15 of this Bill) of the *Dog Amendment (Stop Puppy Farming) Act 2020* (Amendment Act) comes into operation. This definition applies only to section 60B.

Subsection (2) states that the registration of an unsterilised dog that is registered with a local government before the commencement day, continues for that period of registration as if clause 15 had not been enacted. Effectively, the period that an unsterilised dog was registered for before the commencement day will continue until it expires or is cancelled.

If the registration period of such a dog expires after the commencement day, then the unsterilised dog will only be able to be registered for an annual period thereafter.

#### **Section 60C Application for registration**

This section covers applications for registration that have been made but not finalised when this Act comes into effect.

If a person makes an application for registration before the commencement of the Amendment Act and the application is not dealt with before the commencement of the Amendment Act, then the application is to be dealt with as if section 14(5) had not been enacted.

Effectively the sterilisation requirements that apply to dogs before the commencement of the Amendment Act will apply to the application.

#### **Section 60D Transition period in relation to approval to breed**

Subsection (1) defines **commencement day** as meaning the day on which section 22 of the Amendment Act (being clause 22 of this Bill) comes into operation. This definition applies only to section 60D.

Subsection (2) provides that section 26I does not apply if a dog was pregnant before the commencement day. Section 26I makes it an offence if a person's dog gives birth and the person does not have an approval to breed.

### **Section 60E Transition period for relevant pet shop businesses**

Subsection (1) defines:

- ***application day*** as meaning the prescribed date;
- ***commencement day*** as meaning the day in which section 30 of the Amendment Act (clause 30 of this Bill) comes into operation; and
- ***pre-existing dog*** as meaning, in relation to a relevant pet shop business, a dog that is supplied to the relevant pet shop business before the application day.

These definitions apply only to section 60E.

Subsection (2) provides that –

- (a) sections 38B, 38G, 38H, 38I, 38J, 38K and 38L do not apply to a relevant pet shop business before the application day; and
- (b) sections 38G, 38I, 38J, 38K and 38L do not apply to a pre-existing dog held by a pet shop business.

Paragraph (a) ensures that the requirements that relate to the transition of pet shops into adoption centres do not apply until a period after the commencement of the Amendment Act to allow relevant businesses to register and transition their business.

Paragraph (b) ensures that the requirements that relate to dog supply approvals do not apply until a period after the commencement of the Amendment Act to allow relevant persons to apply for and be granted a dog supply approval.

Subsection (3) provides that section 38N does not apply to a person before the application day.

Section 38N states that only a holder of a dog supply approval can supply dogs to a relevant pet shop business.

### **Part 3 – Cat Act 2011 amended**

#### ***Clause 43 – Act amended***

This clause provides that the Bill amends the *Cat Act 2011*.

#### ***Clause 44 – Section 3 amended***

Section 3 of the *Cat Act 2011* provides definitions used throughout the Act.

Subclause (1) removes the definition of ***register***.

Subclause (2) inserts the following definitions:

- **centralised registration system** which has the meaning given in section 41A(1); and
- **Department CEO** which means the chief executive officer of the department in the Public Service principally assisting the Minister in the administration of the Act.

Subclause (3) amends the definition of **sterilised** by removing the reference to ‘surgical procedure’. This allows for advances in veterinary medicine whereby an animal may be rendered permanently infertile by means other than a surgical procedure.

Subclause (4) amends the definition of **transfer** by deleting the reference to ‘offer for sale’.

#### **Clause 45 – Section 8 amended**

This clause amends section 8(2)(a) by requiring a person to make an application for cat registration or renewal in the manner and form approved by the CEO of the Department. The form will no longer be set in regulations.

#### **Clause 46 – Section 12 replaced**

Clause 46 deletes and replaces section 12 of the *Cat Act 2011*.

Subsection (1) makes it a requirement for local governments to maintain a record of cats registered in their district in the centralised registration system.

Subsection (2) requires a local government to record information in the centralised registration system that is prescribed and relates to cats registered by the local government.

#### **Clause 47 – Section 16 amended**

Section 16 provides that a microchip database company must keep and maintain information in its database.

Clause 47 amends section 16. The amendment reflects that the company can only enter into the database the information it has been given.

#### **Clause 48 – Section 24 amended**

Clause 48 is a consequential amendment resulting from the replacement of section 12 by clause 46 in this Bill.

#### **Clause 49 – Section 25 replaced**

Clause 49 deletes and replaces section 25 of the *Cat Act 2011*.

Section 25 requires a cat owner to notify the local government and microchip database company within 7 days of any changes to information required under sections 12(2) and 15. This is a consequential amendment due to the replacement of section 12.

The penalty for not complying is a fine of \$5,000.

#### ***Clause 50 – Section 33 amended***

Clause 50 amends section 33 of the *Cat Act 2011*. These amendments ensure consistency between the *Dog Act 1976* and the *Cat Act 2011* and reflect current drafting practice.

#### ***Clause 51 – Section 36 amended***

This clause amends section 36(2) by requiring a person to make an application for an approval to breed cats in the manner and form approved by the CEO of the Department.

#### ***Clause 52 – Sections 40A and 40B inserted***

Clause 52 inserts sections 40A and 40B into the *Cat Act 2011*.

##### **Section 40A Record of approval to breed cats**

Subsection (1) requires the local government to record their decision regarding an application for an approval to breed a cat in the centralised registration system.

Subsection (2) requires the local government to update the centralised registration system with:

- (a) any change to the information notified under section 40B;
- (b) any cancellation or expiry of an approval to breed a cat; and
- (c) the outcome of any objection or review under Part 4 Division 5.

##### **Section 40B Notice of change to information**

Section 40B requires a cat breeder to notify the local government in writing of any changes to information prescribed under section 40A(1).

The penalty for not complying is a fine of \$5,000.

#### ***Clause 53 – Part 4 Division 1A inserted***

Clause 54 inserts Part 4 Division 1A into the *Cat Act 2011*.

##### **Division 1A – Centralised Registration System**

##### **Section 41A Centralised registration system**

New section 41A provides for the establishment and maintenance of a centralised registration system.

Subsection (1) provides that it is the responsibility of the CEO of the Department to establish and maintain the centralised registration system.

Subsection (2) provides that both the CEO and each local government have responsibility for recording data in the registration system and ensuring that it is accurate and kept up-to-date. The information that must be recorded in the system will be prescribed in regulations. The type of information to be prescribed will be information relating to any application made under the *Cat Act 2011*.

Subsection (3) provides that errors and omissions in the centralised registration system can be corrected by the CEO or a local government.

Subsection (4) is a consequential amendment for the introduction of the centralised registration system.

Subsection (5) provides that regulations may deal with any matters relating to the centralised registration system, including its establishment, maintenance and accessibility.

Subsection (6) allows for a single centralised registration system to be used for the purposes of both the *Dog Act 1976* and *Cat Act 2011*.

#### ***Clause 54 – Section 43A inserted***

Clause 54 inserts section 43A into the *Cat Act 2011*.

#### **Section 43A Delegation by Department CEO**

This new section allows the CEO to appoint persons to perform duties of the CEO on behalf of the CEO. For example, it will allow the CEO to delegate their duty to establish and maintain the centralised registration system to another person.

Subsection (1) provides that the CEO may delegate any function of the CEO under the Act.

Subsection (2) requires the delegation to be in writing signed by the CEO.

Subsection (3) provides that a person with a delegated function cannot delegate that function.

Subsection (4) provides that a person performing a delegated function is taken to have done so in accordance with the terms of the delegation unless the contrary is shown.

Subsection (5) provides that nothing in the section limits the ability for the CEO to perform a function through an officer or agent.

#### ***Clause 55 – Section 76 amended***

Section 76 is a regulation making power. Clause 55 inserts paragraph (c) into section 76(2) to allow the Governor to make regulations prescribing how any notice,

information or document required under the Cat Act is to be given, including by specifying that the centralised registration system is to be used.

***Clause 56 – Section 88 inserted***

Clause 56 inserts section 88 into the *Cat Act 2011*.

***Section 88 Transitional provision for the Dog Amendment (Stop Puppy Farming) Act 2020***

Subsection (1) inserts the following definitions:

- ***centralised registration system*** which means the electronic database or system the Department CEO establishes and maintains when section 53 of the Amendment Act (clause 53 of this Bill) comes into operation;
- ***commencement day*** means the day in which section 53 of the Amendment Act (clause 53 of this Bill) comes into operation; and
- ***Department CEO*** which means the chief executive officer of the department in the Public Service principally assisting the Minister in the administration of the Cat Act.

Subsection (2) provides that the CEO may establish and maintain the centralised registration system before the commencement day.

Paragraph (a) of subsection (2) allows the CEO to permit a local government to record information required to be recorded under the Cat Act in the centralised registration system before the commencement date.

Paragraph (b) of subsection (2) allows the CEO to permit information to be transferred from a local government register into the centralised registration system before the commencement date.

Subsection (3) provides that information recorded in the centralised registration system, in accordance with subsection (2)(a) or (b), is information taken to be recorded on a register maintained by the local government for the purposes of the Cat Act.