



New South Wales

Companion Animals Amendment Regulation 2000

under the

Companion Animals Act 1998

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Companion Animals Act 1998*.

HARRY WOODS, M.P.,
Minister for Local Government

Explanatory note

The objects of this Regulation are as follows:

- (a) to enable the Director-General to issue guidelines with respect to procedures to be followed when entering identification information on the Register of Companion Animals (the Register),
- (b) to make provision with respect to notification and other procedures to be followed in relation to the withdrawal of certain authorities and the revocation of appointments of registration agents,
- (c) to require persons authorised to accredit other persons as authorised identifiers of companion animals to make reasonable enquiries before accrediting them, and to provide for withdrawal of authorisation for failure to do so,
- (d) to exempt companion animals less than 12 weeks old from having to be identified before being sold if the sale is by a recognised breeder to a pet shop,
- (e) to enable local councils (rather than the Director-General) to direct the registration of nuisance and other companion animals, and to exercise certain other functions in relation to companion animals that cease to be exempt from registration as assistance animals,

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- (f) to exempt the following companion animals from the requirement of registration:
 - (i) animals in the custody of organisations approved of by the Director-General,
 - (ii) animals in the custody of certain persons and establishments for purposes in connection with animal research as authorised under the *Animal Research Act 1985*, and
 - (iii) animals kept at a licensed animal display establishment within the meaning of the *Exhibited Animals Protection Act 1986* and exhibited under the authority of a permit issued under that Act,
- (g) to except persons to whom ownership of an animal is transferred from the obligation to notify the Director-General of that change in ownership,
- (h) to create certain offences relating to unauthorised access to, use of or interference with, or disclosing or recording of, information on the Register,
- (i) to prescribe an exception to section 89 of the *Companion Animals Act 1998* (which creates an offence for making a record of or divulging information acquired in the exercise of functions under the Act) in relation to persons seeking the name of the owner of a companion animal for the purpose of bringing legal proceedings against them in respect of the animal's behaviour,
- (j) to enable the Director-General to afford different degrees of access to the Register to different classes of person authorised to have access to the Register,
- (k) to provide for the issuing of penalty notices in respect of certain offences against the Act and this Regulation.

This Regulation also makes a number of other amendments of a minor, consequential or ancillary nature (including the omission of certain procedural provisions from the *Companion Animals Regulation 1999* that may be dealt with by guidelines issued by the Director-General).

This Regulation is made under the *Companion Animals Act 1998*, including sections 70 (Identification), 71 (Registration), 75 (Access to the Register), 89 (Confidentiality), 92 (Penalty notices) and 96 (the general regulation-making power).

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1 Name of Regulation

This Regulation is the *Companion Animals Amendment Regulation 2000*.

2 Commencement

This Regulation commences on 1 July 2000.

3 Amendment of Companion Animals Regulation 1999

The *Companion Animals Regulation 1999* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

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Schedule 1 Amendments

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(Clause 3)

[1] Clause 3 Definitions

Insert in alphabetical order:

pet shop means a shop used for the conduct of a business in the course of which an animal is kept for sale.

recognised breeder means a person who is a member of the Royal NSW Canine Council Ltd, NSW Cat Fanciers Association Inc or Waratah State Cat Alliance Inc.

[2] Clause 7 Identification only by authorised persons

Omit clause 7 (1). Insert instead:

- (1) A person must not implant a microchip in a companion animal unless the person:
 - (a) is an authorised identifier, or
 - (b) does so under the supervision of an authorised identifier who is a veterinary surgeon.

[3] Clause 7 (2)

Omit “an authorised identifier of companion animals”.

Insert instead “capable of identifying companion animals for the purposes of section 8 of the Act”.

[4] Clause 8 Procedure for identification

Omit clause 8 (1) (d) and (e).

[5] Clause 8 (2)

Omit the subclause. Insert instead:

- (2) The Director-General may:
 - (a) issue guidelines to authorised identifiers with respect to the procedures to be followed by them when identifying companion animals for the purposes of section 8 of the Act, and

- (b) issue guidelines to authorised identifiers and councils with respect to the procedures to be followed by them when entering identification information on the Register for the purposes of section 70 (3) of the Act.

Authorised identifiers and councils must follow the procedures concerned if they are required to do so by those guidelines.

[6] Clause 9 Identification information

Omit clause 9 (j).

[7] Clause 10 Accreditation of persons as authorised identifiers

Insert “, after making reasonable enquiries,” after “satisfied” in clause 10 (2).

[8] Clause 10 (2) (b)

Omit the paragraph. Insert instead:

- (b) will comply with the requirements of this Regulation with respect to the identification of companion animals, and of any guidelines issued to authorised identifiers from time to time by the Director-General under clause 8.

[9] Clauses 10 (2A)–(2C)

Insert after clause 10 (2):

- (2A) The Director-General may withdraw a person’s authorisation given under subclause (1) if satisfied that the person has failed to make reasonable enquiries before accrediting a person as an authorised identifier of companion animals.
- (2B) Before withdrawing a person’s authorisation under subclause (2A), the Director-General must:
- (a) notify the person of the proposed withdrawal of the authorisation, and
 - (b) give the person a reasonable opportunity to make submissions to the Director-General in respect of the proposed withdrawal, and
 - (c) have due regard to any such submissions.

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- (2C) The Director-General must cause a person whose authorisation is withdrawn to be notified of the withdrawal in writing. Withdrawal of an authorisation takes effect on the day on which the notice is given, or from a later day specified in the notice.

[10] Clause 11 Withdrawal of accreditation

Omit clause 11 (1) (c). Insert instead:

- (c) has failed to comply with a requirement of this Regulation with respect to the identification of companion animals, or of any guidelines issued to authorised identifiers from time to time by the Director-General under clause 8.

[11] Clause 12 Withdrawal of veterinary surgeon's authorisation

Omit clause 12 (2) (b). Insert instead:

- (b) has failed to comply with a requirement of this Regulation with respect to the identification of companion animals, or of any guidelines issued to authorised identifiers from time to time by the Director-General under clause 8.

[12] Clause 13 Exemptions

Insert after clause 13 (2):

- (3) A companion animal is exempt from section 8 (2) of the Act in respect of its sale by a recognised breeder to a pet shop if, at the time of the sale, it is less than 12 weeks old.

[13] Clause 14 Registration agents

Insert after clause 14 (3):

- (4) Before revoking an appointment under subclause (2) the Director-General must:
- (a) notify the person or body of the proposed revocation, and

- (b) give the person or body a reasonable opportunity to make submissions to the Director-General in respect of the proposed revocation, and
 - (c) have due regard to any such submissions.
- (5) The Director-General must cause a person or body whose application as a registration agent has been revoked to be notified of the revocation in writing. Revocation of an appointment takes effect on the day on which the notice is given, or from a later day specified in the notice.

[14] Clause 16

Omit the clause. Insert instead:

16 Registered owner must be 18 or over

A natural person under the age of 18 years cannot be the registered owner of a companion animal.

Note. A registered owner of a companion animal may be a natural person, a corporation or a body corporate or politic.

[15] Clause 17 Exemptions from registration requirement

Omit “or RSPCA” from clause 17 (c).

Insert instead “, RSPCA or any other organisation approved by the Director-General by order published in the Gazette”.

[16] Clause 17 (d)

Omit “(a *pet shop* being a shop used for the conduct of a business in the course of which an animal is kept for the purposes of sale)”.

[17] Clause 17 (h) and (i)

Insert at the end of clause 17:

- (h) an animal in the custody of an accredited research establishment within the meaning of the *Animal Research Act 1985*, or the holder of an animal research authority or an animal supplier’s licence within the meaning of that Act, for purposes in connection with animal research, as authorised under that Act,

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- (i) an animal kept at a licensed animal display establishment within the meaning of the *Exhibited Animals Protection Act 1986* and lawfully exhibited in accordance with that Act.

[18] Clause 18 (3)

Omit the definition of *recognised breeder*.

[19] Clause 19 Registration fee exemption for assistance animals

Omit “Director-General” from clause 19 (3).

Insert instead “council of the area in which the animal is ordinarily kept”.

[20] Clause 19 (4) and (5)

Omit clause 19 (4). Insert instead:

- (4) Before cancelling the registration of an animal under subclause (3), the council must notify the owner of the animal in writing of the proposed cancellation and of any associated action proposed to be taken (including subsequent prosecution of the owner for being the owner of an unregistered animal).
- (5) A council that cancels the registration of an animal under this clause must notify the Director-General of the cancellation within 7 days.

[21] Clause 21 Registration information

Omit clause 21 (j), (l), (m) and (o).

[22] Clause 21 (n)

Omit “by whom and”.

[23] Clause 22 Duties of registration agents

Omit the clause.

[24] Clause 24 Notification of changes and events

Insert at the end of clause 24:

- (2) Section 11 (1) of the Act, in so far as it requires notification of change of ownership of a registered companion animal, does not apply to a person to whom ownership of such an animal is transferred in relation to that transfer.

Note. Section 11 (1) (a) of the Act imposes a joint obligation on the registered owner of a companion animal and the person to whom the registered owner transfers ownership of that animal, to notify the Director-General of the change in ownership. The effect of clause 24 (2) is to except the new owner (under section 96 (2) (a) of the Act) from having to comply with that obligation (although the new owner is not prevented from carrying out the obligation on behalf of the registered owner).

[25] Clause 26 Requirement for registration of nuisance and other animals

Omit “Director-General” from clause 26 (1).

Insert instead “council of the area in which the animal is ordinarily kept”.

[26] Clause 26 (2)

Omit “Director-General may by notice in writing given to the person direct that any companion animal currently owned by the person and”.

Insert instead “council of the area in which any companion animal currently owned by the person is kept may, by notice in writing given to the person, direct that any such animal that is”.

[27] Clause 27 Requirement for registration of lost and impounded animals

Omit clause 27 (1). Insert instead:

- (1) A companion animal not otherwise required to be registered under the 1998 Act that is taken into the custody of a council pound, the Animal Welfare League, the Cat Protection Society, the RSPCA or any organisation approved by the Director-General under clause 17 (c) must be registered under the 1998 Act before it is returned to its owner from that custody.

[28] Clause 28 Authorised persons

Insert after clause 28 (2):

- (3) The Director-General may withdraw a person’s authorisation given under subclause (2) at any time.

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- (4) Before withdrawing a person's authorisation under subclause (3), the Director-General must:
 - (a) notify the person of the proposed withdrawal of the authorisation, and
 - (b) give the person a reasonable opportunity to make submissions to the Director-General in respect of the proposed withdrawal, and
 - (c) have due regard to any such submissions.
- (5) The Director-General must cause a person whose authorisation is withdrawn to be notified of the withdrawal in writing. Withdrawal of an authorisation takes effect of the day on which the notice is given, or from a later day specified in the notice.

[29] Clauses 29, 30 and 30A

Omit clauses 29 and 30. Insert instead:

29 Privacy of information on Register

- (1) Except as provided by this clause, a person must not:
 - (a) access or attempt to access information contained in the Register, or
 - (b) intentionally allow a person to have access to information on the Register (for example, by disclosing to the person any access code, password or other individual identifier that enables access to that information), or
 - (c) make, alter or delete any entry in the Register, or interfere with the Register in any other way, or
 - (d) use information contained in the Register.

Maximum penalty: 10 penalty units.

- (2) For the purposes of this clause, *use* does not include the direct or indirect making of a record or disclosure of information contained in the Register.
- (3) It is not an offence under this clause for a person to do anything referred to in subclause (1) (a)–(d):
 - (a) in the exercise of functions under the Act, or

- (b) for the purposes of or in connection with the exercise by another person of functions under the Act, or
- (c) as authorised or required by or under section 75 (Access to the Register) of the Act, or
- (d) as authorised or directed by the Director-General.

30 Confidentiality of information on Register

- (1) A person who acquires information from the Register (otherwise than in the exercise of functions under the Act) must not directly or indirectly make a record of the information or disclose it to any person.

Maximum penalty: 10 penalty units.

Note. Section 89 of the Act provides for a duty of confidentiality in respect of persons who exercise functions under the Act.

- (2) It is not an offence under this clause for a person directly or indirectly to make a record of, or disclose, information:
 - (a) for the purposes of or in connection with the exercise by another person of functions under the Act, or
 - (b) as authorised or directed by the Director-General, or
 - (c) with the consent of the person to whom the information relates.
- (3) It is not an offence under this clause for a person to disclose information if the person is required to do so by law.
- (4) Subclause (1) does not apply to a disclosure of information to any of the following:
 - (a) the Independent Commission Against Corruption,
 - (b) the National Crime Authority,
 - (c) the New South Wales Crime Commission,
 - (d) the Ombudsman.
- (5) Subclause (1) does not apply to a disclosure of the name of the owner of a companion animal to a person who seeks that information for the purpose of bringing legal proceedings against the owner in respect of the animal's behaviour, but only if:
 - (a) the person has made a written request for that information, and

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- (b) the animal's behaviour concerned has been reported to the police or a council.
- (6) For the purposes of section 89 (4) of the Act, a person who seeks the name of the owner of a companion animal for the purpose of bringing legal proceedings against the owner in respect of the animal's behaviour is prescribed in relation to the divulging of the name of the owner of the animal, but only if:
 - (a) the person has made a written request for that information, and
 - (b) the animal's behaviour concerned has been reported to the police or a council.
- (7) In subclauses (5) and (6), *person* includes the person's legal representative.

30A Access may be limited to information relevant to functions

For the purposes of section 75 (4) of the Act, the Director-General may afford different degrees of access to the Register to different classes of authorised person, having regard to the different functions that they perform.

[30] Clause 31 Request for confidentiality where safety concerns

Omit clause 31 (1). Insert instead:

- (1) The owner of a companion animal whose personal details are entered on the Register may request the Director-General to keep those details confidential.

[31] Schedule 1 Penalty notice offences and short descriptions

Insert in appropriate order the following matter:

Section 89 (1)	unauthorised recording/divulging of confidential information	\$220
Section 90 (2) (a)	fail to give name and address	\$220
Section 90 (2) (b)	give false name/address	\$220

[32] Schedule 1

Insert at the end of Schedule 1:

Offence under this Regulation	Prescribed expression	Penalty
Clause 7 (1)	unauthorised implantation	\$220
Clause 7 (2)	unauthorised identifier advertise/represent capacity to identify	\$110
Clause 29 (1) (a)	unauthorised access/attempt to access Register	\$220
Clause 29 (1) (b)	allow unauthorised access to Register	\$220
Clause 29 (1) (c)	make/alter/delete entry in/interfere with Register	\$220
Clause 29 (1) (d)	unauthorised use of information in Register	\$220
Clause 30 (1)	unauthorised recording/disclosure of information from Register	\$220