

Australian Capital Territory

Domestic Animals (Operation of Domestic Animals Registry Services) Code of Practice 2008 (No 1)*

Disallowable instrument DI2008–68

made under the

Domestic Animals Regulation 2001, section 22 (Code of practice about operation of domestic animals registry service)

1 Name of instrument

This instrument is the Operation of Domestic Animals (Operation of Domestic Animals Registry Services) Code of Practice 2008 (No 1).

2 Commencement

This instrument commences on the day after notification.

3 Approval of Code of Practice

I approve the “Code of Practice for the Operation of Domestic Animals Registry Services 2008” as set out in the attached schedule.

John Hargreaves MLA
Minister for Territory and Municipal Services

29 April 2008

*Name amended under Legislation Act, s 60

Australian Capital Territory

Code of Practice

for the

Operation of Domestic

Animals Registry Services

2008

Code of Practice for the Operation of Domestic Animals Registry Services 2008

1. Background

- 1.1 This Code of Practice specifies the procedures and obligations to be followed by a person who operates a domestic animals registry service in the Australian Capital Territory under Part 4 (Implanting Microchips) of the Domestic Animals Regulation 2001 (the Regulation).

Section 22 of the Regulation gives the Minister the power to approve a Code of Practice about the operation of domestic animals registry service in the Territory. Under subsections 22(3) and 22(4) of the Regulation, a person who operates a domestic animals registry service in the Territory commits an offence if he or she does not comply with this Code of Practice.

Given the ACT Government does not intend to establish its own government-run database and registry for storage of information about microchipped dogs and cats, this Code of Practice covers privately-run domestic animals registry services operating in the Territory which are licensed to operate by corresponding law in other jurisdictions. Under section 18 of the Regulation, a person operating a domestic animals registry service in the Territory commits an offence if he or she is not licensed under corresponding law, or the person is prohibited from operating the service in the Territory under section 19 of the Regulation.

Section 19 of the Regulation gives the Registrar of Domestic Animals Services the power, by written notice, to prohibit any person from operating a domestic animals registry service in the Territory. Section 20 requires the operator of a domestic animals registry service to provide information about the registry service to the Registrar when requested within seven days. Under section 21, the operator of a domestic animals registry service commits an offence if he or she ceases to be licensed to operate or ceases operations in the Territory and fails to notify the Registrar in writing within 3 working days.

2. Dictionary

- 2.1 The dictionary at the end of this Code of Practice is part of this Code.

3. Obligations regarding information received

- 3.1 Upon receipt of the prescribed information from sellers of microchips, an approved licence holder operating a domestic animals registry service must examine the information received and compare the identification number of the identifying microchip against any information that the domestic animals registry holds or has access to as part of conducting a domestic animals registry service to determine whether the identification number of the device is unique and contains no character errors.
- 3.2 Upon receipt of the identifying particulars required to be supplied under para. 9.1 of the Code of Practice for Implanting Microchips for Dogs and Cats 2008 for an identifying microchip, an approved licence holder must examine the information and determine whether the unique identification number of the identifying microchip correctly links to the person to whom the device was sold or supplied for the purpose of implantation.
- 3.3 An approved licence holder must not use the name and address of a person to which an identifying microchip has been sold under section 12(1)(a) of the Regulation for any purpose other than for the purposes of providing a domestic animals registry service.

4. Notifying persons about incorrect information

- 4.1 An approved licence holder operating a domestic animals registry service must notify a person who has implanted a microchip within two working days after becoming aware that any of the following have occurred:
 - (a) a person who has implanted an identifying microchip in a dog or cat has failed to provide to the approved licence holder all or part of the identifying particulars under para. 9.1 of the Code of Practice for Implanting Microchips for Dogs and Cats 2008;
 - (b) a person who has implanted an identifying microchip in a dog or cat has failed to provide to the approved licence holder all or part of the prescribed information under section 12(1) of the Regulation;
 - (c) a person who has implanted an identifying microchip in a dog or cat has supplied to the approved licence holder inaccurate or incorrect identifying particulars under para. 9.1 of the Code of Practice for Implanting Microchips for Dogs and Cats 2008;
 - (d) a person who has implanted an identifying microchip in a dog or cat has supplied to the approved licence holder inaccurate or incorrect prescribed information under section 12(1) of the Regulation.

- 4.2 An approved licence holder who has notified a person who has implanted an identifying microchip in a dog or cat under paras 4.1(a), 4.1(b), 4.1(c) or 4.1(d) above must notify the Registrar if incomplete, inaccurate or incorrect information (as the case may be) is not supplied or re-supplied in accurate form within 14 days after so notifying the person.

5. Holding of information separately until certain matters are confirmed

- 5.1 An approved licence holder operating a domestic animals registry service:
- (a) must retain any identifying particulars provided under para. 9.1 of the Code of Practice for Implanting Microchips in Dogs and Cats 2008 relating to a dog or cat or the keeper of the dog or cat separately from the records kept as part of the domestic animals registry service; and
 - (b) must not create any record that includes that information; until the matters to be determined under paras. 3.1 and 3.2 above are satisfied.

6. Prohibition against establishing new records for dogs and cats

- 6.1 On and from 1 May 2008 an approved licence holder operating a domestic animals registry service must not establish a record relating to a dog or cat implanted with an identifying microchip as part of providing a domestic animals registry service in respect of that animal unless:

- (a) the approved licence holder determines that -
 - (i) the identifying microchip is a prescribed identifying microchip that was implanted in the animal in the Territory by an implanter in accordance with the Act, the Regulation and the Code of Practice for Implanting Microchips for Dogs and Cats 2008; and
 - (ii) the prescribed identifying particulars relating to the animal and the animal's owner accord with para. 9.1 of the Code of Practice for Implanting Microchips for Dogs and Cats 2008; or
- (b) the identifying microchip was implanted prior to 1 May 2008 and the identifying microchip is capable of uniquely identifying the animal; or
- (c) the identifying microchip has been implanted in the animal outside of the Australian Capital Territory and the approved licence holder is reasonably satisfied that the microchip is capable of uniquely identifying the animal; or
- (d) the establishment of the record is approved by an authorised officer appointed under Part 9 of the Act.

- 6.2 Para. 6.1 above does not apply if the approved licence holder was keeping and maintaining a record of identifying information in respect of the animal as part of a service in the nature of a domestic animals registry service immediately before 1 May 2008.

7. Payment for domestic animals registry services

- 7.1 An approved licence holder must provide a domestic animals registry service in respect of a dog or cat if:
- (a) the appropriate payment is paid for the provision of that service to the approved licence holder; and
 - (b) the approved licence holder is not prohibited from establishing a record for the animal under para. 6.1 above.

8. New records to be established within 4 days

- 8.1 An approved licence holder must ensure that the identifying particulars relating to a dog or cat or the keeper of the animal provided in accordance with para. 9.1 of the Code of Practice for Implanting Microchips for Dogs and Cats 2008 is entered into a new record for that animal as part of the domestic animals registry service provided by the approved licence holder to the keeper in respect of that animal within 4 business days after the approved licence holder:
- (a) has received the information from the person who implanted an identifying microchip in the animal; and
 - (b) the matters under paras. 3.1, 3.2 and 3.3 above are satisfied.

9. Licence holder to provide certificate of identification

- 9.1 An approved licence holder operating a domestic animals registry service must provide the keeper of a dog or cat in respect of which a record has been established under para.8.1 with a certificate of identification after the establishment of the record.
- 9.2 A certificate of identification must contain:
- (a) information about the procedures for amending identifying particulars contained in the record for the dog or cat; and
 - (b) the identifying particulars required for dogs as specified in subsections 7(5)(a)(i) to (x) and 7(5)(b)(i) to (iii); and the identifying particulars required for cats as specified in subsections 9(2)(a)(i) to (ix) and 9(2)(b)(i) to (iii) of the Regulation.

10. Records of dogs or cats to be maintained for life

- 10.1 An approved licence holder that has agreed to provide a domestic animals registry service in respect of a dog or cat must keep and maintain any record relating to that animal as part of that service for the lesser of the following periods:

- (a) the lifetime of the animal;
- (b) 30 years after the approved licence holder first established a record in relation to that animal as part of such a service; and
- (c) 30 years after any former domestic animals registry first established a record relating to that animal as part of such a service.

11. The manner of keeping records and copies of records

- 11.1 Any identifying particulars or prescribed information relating to a dog or cat provided to an approved licence holder operating a domestic animals registry service must be retained by the licence holder for the same period that the licence holder must keep a record relating to that animal under para. 10.1 in this Code of Practice.
- 11.2 The prescribed manner for keeping and maintaining the records containing the identifying particulars and the prescribed information is in an electronic format sufficient for the purposes of para.15 below.
- 11.3 The prescribed manner for keeping and maintaining copies of records containing the identifying particulars and the prescribed information is in an electronic format sufficient for the purposes of para.15 below.

12. Approved licence holder to notify keeper of certain matters

- 12.1 If an approved licence holder operating a domestic animals registry service has been notified under para. 6.2 of the Code of Practice for Implanting Microchips for Dogs and Cats 2008 of the fact that a dog or cat in respect of which the approved licence holder holds a record has been presented for implantation with an identifying microchip, the licence holder must:
 - (a) notify the keeper of the animal of that fact; and
 - (b) if provided to the licence holder, provide the keeper with the name and telephone number of the person who presented the animal for implantation.
- 12.2 If an approved licence holder is unable to contact the owner under para.12.1 above the licence holder must enter the following details in the record held for the animal:
 - (a) that the animal has been presented for implantation with an existing implanted identifying microchip;
 - (b) if provided to the licence holder, the name, address and telephone number of the person who so presented the animal;
 - (c) the date on which the licence holder received the information referred to in paragraphs 12.2(a) and 12.2(b); and

- (d) the date that the licence holder attempted to notify the keeper in accordance with para.12.1.

13. Reunion of lost animals and keepers

- 13.1 An approved licence holder, in providing a domestic animals registry service must supply accurate information to keeper in order to ensure prompt reunion of any lost dog or cat implanted with an identifying microchip with the keeper of the animal.

14. Approving a complaints system

- 14.1 The Registrar of Domestic Animals Services may approve a complaints system operated by, or on behalf of, a domestic animals registry service for addressing complaints in respect of providing that service if the Registrar is satisfied that the system established under a corresponding law is adequate for the recording and addressing of complaints in respect of providing a domestic animals registry service in the Territory.
- 14.2 In determining whether to approve a system under para.14.1 the Registrar may request that an approved licence holder provide to the Registrar any information or documents that the Registrar reasonably requires.

15. Access to and provision of information

- 15.1 An approved licence holder that is providing a domestic animals registry service in respect of a domestic animal must ensure any record relating to a dog or cat is accessible to persons defined by para. 21 below either electronically or by telephone:
 - (a) 24 hours a day, on any day in any year to permit retrieval of information for the purposes of identifying that animal; and
 - (b) during normal business hours to permit retrieval of information other than for the purposes of identifying individual animals.
- 15.2 An approved licence holder must contact other approved licence holders to determine whether a record relating to a dog or cat is kept by another licence holder if:
 - (a) the licence holder receives a request for information regarding that animal; and
 - (b) the licence holder does not keep a record for that animal.
- 15.3 If an approved licence holder receives a request under para.15.2 for information to identify the owner of a dog or cat for the purpose of reuniting that animal with its owner and the licence holder keeps a record relating to that animal, that licence holder must make efforts to contact the keeper of that animal to inform

the keeper of the request for information unless the Registrar or an animal shelter agrees to contact the keeper and so inform the keeper.

15.4 An approved licence holder must establish and maintain a system to identify and keep records of any persons referred to in para. 21.1 of this Code of Practice to whom the licence holder provides any identifying particulars.

15.5 A record kept under para.15.4 above must be kept for the same period that the licence holder must keep a record relating to the relevant dog or cat under para. 10 above.

16. Copies of records to be provided periodically

16.1 An approved licence holder is required to periodically provide copies of the records it holds on Territory animals to the licensing authority in accordance with the requirements of the corresponding law under which that licence holder was licensed, or permitted to operate a domestic animal registry service.

Note: Under a corresponding law in another jurisdiction, an approved licence holder or equivalent authorised person may be required periodically (eg. once a month) to:

- (a) deposit in electronic format a copy of all records of dogs or cats maintained as part of the domestic animals registry service into:
 - (i) bank deposit box; or
 - (ii) some other type of secure storage facility maintained by the approved licence holder; or
- (b) provide a copy of those records in electronic format to the licensing authority or its equivalent.

16.2 An approved licence holder must ensure that the records deposited under 16.1 in relation to Territory animals are accessible for inspection by an authorised officer appointed under Part 9 of the Act.

17. Amending information in records

17.1 An approved licence holder providing a domestic animals registry service must not amend the identifying information contained in a record kept and maintained by the licence holder in relation to a dog or cat unless:

- (a) the licence holder has received an application to so amend the record from the person specified as the keeper of the animal in the identifying information contained in the record; or
- (b) the licence holder has received an application to so amend the record from an authorised officer appointed under Part 9 of the Act; or
- (c) in the case of an application for a change of ownership of the animal—
 - (i) the licence holder has received an application to change the ownership of the animal from the new keeper of the animal in accordance with para.17.2; and

- (ii) the licence holder has notified the person specified as the keeper of the animal in the identifying information contained in the record about that application and within 14 days after that notification the owner has either confirmed the ownership change in writing or has not responded to the notification; or
 - (d) in the case of an application for a change of ownership of the animal, the licence holder has received an application to change the ownership of the animal from an animal shelter; or
 - (e) there has been a change in ownership of the animal as a result of an order of a court and the new owner of the animal—
 - (i) applies to the licence holder to amend the record to change the ownership of the animal; and
 - (ii) provides a copy of the order to the licence holder.
- 17.2 For the purposes of para.17.1(c)(i), the applicant must provide to the approved licence holder a declaration stating that the applicant is the new keeper of the animal.
- 17.3 If an approved licence holder becomes aware of a dispute over the ownership of a dog or cat in respect of which the licence holder keeps a record, the licence holder:
- (a) must enter details of the dispute on to the record; and
 - (b) must not amend the record to change the ownership of the animal unless the licence holder is provided with evidence that proves to the reasonable satisfaction of the licence holder that a person other than the person specified as the keeper of the animal in the identifying information contained in the record is the owner of the animal.
- 17.4 If an approved licence holder amends a record kept in relation to a dog or cat to change the ownership of that animal, the licence holder must ensure that the previous ownership details are retained in that record.

18. Reporting of complaints

- 18.1 An approved licence holder must provide a written report to the Registrar every 3 months setting out:
- (a) any complaints made in respect of the domestic animals registry service provided by the licence holder concerning:
 - (i) the keeping and maintaining of records relating to dogs or cats; and
 - (ii) the provision of access to those records; and
 - (iii) any failure of the licence holder to identify the owner of a dog or cat from records kept by the licence holder; and
 - (b) the steps taken by the licence holder to address those complaints.

19. Free access to information by certain people

- 19.1 An approved licence holder must not charge a fee to any of the following persons for providing that person with access to any information kept in a record relating to a dog or cat kept and maintained by the licence holder:
- (a) the chief executive acting in the course of his or her duties under the Act, the Regulation or this Code of Practice;
 - (b) an authorised officer appointed under Part 9 of the Act acting in the course of his or her duties under the Act, the Regulation or this Code of Practice;
 - (c) the keeper of the animal; and
 - (d) any other person where the access is for the purposes of reuniting an animal with its keeper.

20. Surrender of records if approved licence holder ceases to provide domestic animals service

- 20.1 If the Registrar becomes aware that an approved licence holder has ceased to provide a domestic animals registry service for dogs or cats in the Territory for which the licence holder has been licensed under a corresponding law (see section 21 of the Regulation), the Registrar may request any person, who has possession or control of the records relating to those dog or cats, to give the records in electronic format to the Registrar.

21. Restrictions on provision of prescribed identifying particulars to certain persons

- 21.1 An approved licence holder must not provide any of the identifying particulars that forms part of the domestic animals registry service for that dog or cat unless:
- (a) the person is:
 - (i) an authorised identifier or an employee of an authorised identifier; or
 - (ii) the owner of the dog or cat; or
 - (iii) the chief executive or an employee in the department administering the Act;
 - (iv) an authorised officer under Part 9 of the Act;
 - (v) any other person authorised by the chief executive; or
 - (b) the keeper has consented to provision of the information.

22. Requirement to keep and maintain prior records

- 22.1 An approved licence holder must, in relation to any record of identifying particulars kept and maintained in respect of a dog or cat as part of a service in

the nature of a domestic animals registry service provided before approval of this Code of Practice:

- (a) continue, on or after approval of this Code of Practice, to keep and maintain all such records in the manner prescribed and containing the prescribed information; and
- (b) keep and maintain copies of all such records in the manner prescribed.

Dictionary

animal shelter means a premises operated by Domestic Animals Services or the RSPCA.

approved licence holder means a person who is licensed or authorised to provide a domestic animals registry service in another jurisdiction by an authority established under a corresponding law.

authorised identifier means a person who is authorised under section 13 of the Regulation as an identifier of domestic animals for the purpose of implanting microchips in dogs or cats for identification purposes. Under subsection 15(1) of the Regulation, a person commits an offence if they implant an identifying microchip in a dog or cat if the person is not a veterinary surgeon or an authorised identifier (maximum penalty: 10 penalty units. Persons apply to the Registrar to become authorised identifiers, see section 13 of the Regulation.

corresponding law means corresponding domestic animals law in another jurisdiction ie. *Companion Animals Act 1998* (NSW); *Companion Animals Regulation 1999* (NSW); *Domestic (Feral and Nuisance) Animals Act 1994* (Vic.); and *Domestic (Feral and Nuisance) Animals Regulations 2005* (Vic.) as defined in the Dictionary of the Regulation.

identifying microchip means a device for implanting in a dog or cat to uniquely identify it as defined in Notifiable Instrument NI2008- Identifying Microchips for Dogs and Cats Approval 2008 (No 1).

identifying particulars means the information for identifying a dog or cat specified in subsections 7(5) and 9(2), respectively, of the Regulation.

keeper means –

- (a) for a registered dog – the registered keeper of the dog; or
- (b) for any other animal – the owner of the animal;

prescribed information means the information specified in subsection 12(1) of the Regulation which sellers of identifying microchips must provide to each *approved licence holder* providing domestic animals services in the Territory.

reader means an instrument used to scan an identifying microchip whether or not it is implanted in a dog or cat. A *reader* must meet definition of a reader specified in Notifiable Instrument NI2008- Identifying Microchips for Dogs and Cats Approval 2008;

Registrar means the registrar under section 121 of the Act;

the Act means the *Domestic Animals Act 2000*;

the Regulation means the Domestic Animals Regulation 2001.

unique identification number means the unique number identifying a microchip implanted in a dog or cat linked to and by which the identifying particulars for a dog or cat can be worked out, see subsections 7(4)(b) and 9(1)(b) of the Regulation.