



# Domestic Animals Act 1994

## Part 4 – REGISTRATION AND CONDUCT OF DOMESTIC ANIMAL BUSINESS

### 45 Offence to conduct domestic animal business on unregistered premises

A person must not conduct a domestic animal business on a premises which is not registered for that purpose with the Council of the municipal district in which the business is conducted.

### 46 Application for registration

- (1) A person may apply to a Council to register a premises as a premises on which a domestic animal business is conducted.
- (2) The application must be made in the form approved by the Council and contain the information required by the Council and any prescribed information.
- (3) An applicant must give the Council any further information relating to the application that the Council requires.

### 47 Registration of premises

- (1) If a person has applied to have a premises registered with the Council as a premises on which a domestic animal business may be conducted, the Council may register that premises for that purpose.
  - (1a) Before a Council registers premises under subsection (1), a Council authorised officer of that Council may enter and inspect the premises to determine whether the premises complies with a relevant business code of practice made under section 59.
  - (2) The Council may impose any terms, conditions, limitations or restrictions on that registration.
  - (3) If a premises has been registered for the purposes of a domestic animal business, the person who conducts the business must comply with the terms, conditions, limitations or restrictions, if any, on that registration.

### 48 Term and renewal of registration

- (1) A registration under this Part may be renewed annually and continues in force until 10 April in the year following the registration or renewal or until a change in ownership of the business.
- (2) The proprietor of a domestic animal business may renew the registration of the premises on which that business is conducted by applying to the Council in writing no less than 30 days before the registration is due to expire.
- (3) An application for renewal of registration must be made in the form approved by the Council and contain the information required by the Council and any other prescribed information.
- (4) An applicant for renewal of registration must give the Council any further information relating to the application that the Council requires.

### 49 Fees for registration and renewal of registration

- (1) A person who has applied for registration or renewal of registration of premises on which a domestic animal business is being conducted, must pay the fee fixed by the Council with that application.
- (2) The Council may refund the whole or any part of a fee fixed for applications under this Division.

### 51 Surrender of registration

The proprietor of a domestic animal business may surrender the registration of the premises on which that business is conducted by notice to the Council in writing.

### 52 Transfer of registration

- (1) The proprietor of a domestic animal business may apply to the Council to transfer registration of the premises on which the business is conducted to a new premises.
- (2) The notice must be— (a) in writing in a form approved by the Council and contain the information required by the Council and any other prescribed information; and (b) given to the Council at least 30 days before the transfer is made; and (c) accompanied by the fee fixed by the Council.
- (3) A person making an application under subsection (1) must give the Council any further information relating to the transfer of registration that the Council requires.
- (4) If the Council has received an application under subsection (1), it may register the new premises as the premises on which the domestic animal business may be conducted and may impose terms, conditions, limitations and restrictions on that registration.

### 54 Powers of Council

- (1) A Council may—
  - (a) refuse to register or to renew the registration of a premises; or
  - (b) refuse to transfer registration to a new premises; or
  - (c) suspend the registration of a premises; or
  - (d) revoke the registration of a premises.
- (2) Subject to subsections (3), (3A) and (3B) and sections 54A, 54B, 54C and 54D, a Council may act under subsection (1) if it is satisfied that—
  - (a) the proprietor or person applying for registration has failed to comply with the Act, the regulations, any business code of practice applying to the business, or the terms, conditions, limitations or restrictions on registration; or
  - (b) the proprietor or person applying for registration has been found guilty of—
    - (i) an offence against this Act or regulations made under this Act; or (ii) an offence against the Prevention of Cruelty to Animals Act 1986 or regulations made under that Act; or (iii) an offence against a law of another State or a Territory of the Commonwealth that corresponds with a law referred to in subparagraph (i) or (ii); or
    - (c) a relevant person in relation to the domestic animal business that is or is proposed to be conducted on the premises is a relevant person in relation to another domestic animal business (wherever situated) that is a pet shop, pound, animal shelter or breeding domestic animal business.
  - (3) A Council must refuse to register or renew the registration of a premises in relation to a breeding domestic animal business if the Council is satisfied that a relevant person has, at any time within 10 years preceding the date of the application for registration—
    - (a) been found guilty of a specified offence; or
    - (b) been the subject of an order made under section 12(1) of the **Prevention of Cruelty to Animals Act 1986**; or
    - (c) been the subject of an order registered under section 12A(2) of the **Prevention of Cruelty to Animals Act 1986**.
  - (3A) The Council must refuse to register, renew the registration of, or transfer the registration of, a premises on which a domestic animal business is or is proposed to be conducted that is an animal shelter, a pet shop or a pound if a relevant person in relation to the domestic animal business is a relevant person in relation to a breeding domestic animal business (wherever situated).
  - (3B) The Council must refuse to register, renew the registration of or transfer the registration of a premises on which a domestic animal business is or is proposed to be conducted that is a breeding domestic animal business, if a relevant person in relation to that domestic animal business is a relevant person in relation to an animal shelter, pet shop or pound (wherever situated).

### 54A Registration where another domestic animal business on rateable property

- (1) If an application is made to register, renew the registration of or transfer registration of premises for a breeding domestic animal business, the Council must refuse to register the premises in respect of which the application is made if—
  - (a) another breeding domestic animal business is being conducted, or is proposed to be conducted, on the rateable property on which the premises is located; or
  - (b) an animal shelter is being conducted, or is proposed to be conducted, on the rateable property on which the premises is located; or
  - (c) a pet shop is being conducted, or is proposed to be conducted, on the rateable property on which the premises is located.
- (2) If an application is made to register, renew the registration of or transfer the registration of premises for an animal shelter, the Council must refuse to register the premises in respect of which the application is made if a breeding domestic animal business or a pet shop is being conducted, or is proposed to be conducted, on the rateable property on which the premises is located.
- (3) If an application is made to register, renew the registration of or transfer the registration of premises for a pet shop, the Council must refuse to register the premises in respect of which the application is made if a breeding domestic animal business or an animal shelter is being conducted, or is proposed to be conducted, on the rateable property on which the premises is located.

### 54B Registration of breeding domestic animal business premises—10 relevant fertile female dog limit

- (1) The Council must refuse to register the premises on which a breeding domestic animal business is proposed to be conducted, if the Council is satisfied that more than 10 relevant fertile female dogs are proposed to be kept at the premises.
- (2) Subsection (1) does not apply if the breeding domestic animal business is to be conducted by a proprietor who is an approved commercial dog breeder.

### 54C Transfer of registration of breeding domestic animal business premises—10 relevant fertile female dog limit

- (1) The Council must refuse to transfer the registration of premises on which a breeding domestic animal business is being conducted to another premises, if the Council is satisfied that more than 10 relevant fertile female dogs are proposed to be kept at the premises.
- (2) Subsection (1) does not apply if the breeding domestic animal business is to be conducted by a proprietor who is an approved commercial dog breeder.

### 54D Renewal of registration of breeding domestic animal business premises—10 relevant fertile female dog limit

- (1) On and from 10 April 2020, the Council must refuse to renew the registration of a premises on which a breeding domestic animal business is being conducted, if the Council is satisfied that more than 10 relevant fertile female dogs are being kept or are proposed to be kept at the premises.
- (2) Subsection (1) does not apply if the breeding domestic animal business is being conducted by a proprietor who is an approved commercial dog breeder.

### 54E Pre-2020 renewal of registration of breeding domestic animal business premises—fertile female dogs

- (1) The Council must refuse to renew the registration of a premises on which a breeding domestic animal business is being conducted if the Council is satisfied that more than 10 relevant fertile female dogs are being kept at the premises and a relevant fertile female dog is being kept at the premises that was not for all of the period of 12 months immediately preceding the Council's decision kept at the premises.
- (2) Subsection (1) does not apply if the breeding domestic animal business is to be conducted by a proprietor who is an approved commercial dog breeder.
- (3) The power of a Council to act under section 54(1) is subject to this section.
- (4) This section is repealed on 10 April 2020

### 55 Council to give notice

If a Council proposes to exercise its powers under section 54, 54A, 54B, 54C, 54D or 54E it must give notice of that intention to the proprietor or person applying for registration before acting under that section.

### 56 Council to hear proprietor or applicant

- (1) Before acting under section 54, 54A, 54B, 54C, 54D or 54E the Council must give the proprietor or person applying for registration an opportunity to make both oral and written submissions to it.
- (2) The Council must take into consideration any submissions made to it.

### 57 Notice of Council's decision

- (1) The Council must serve notice of its decision on the proprietor or person applying for registration, either in person or by registered post, within 7 days after the making of the decision.
- (2) The Council must give reasons for its decision in the notice.

### 57A Court may cancel or revoke registration

- (1) If, in any proceedings before a court—
  - (a) the holder of a registration under Division 1 of Part 4 of a premises on which a domestic animal business may be conducted is convicted or found guilty of an offence against this Act or the regulations or an offence against the Prevention of Cruelty to Animals Act 1986 or the regulations made under that Act; and
  - (b) the court is of the opinion that the registration should be suspended or revoked— the court may make an order under subsection (2) or refer the matter to the Council that registered the premises.
- (2) For the purposes of subsection (1) the court may—
  - (a) order that the registration be suspended for a period not exceeding one year; or
  - (b) order that the registration be The Registrar or other relevant officer of the court must immediately forward a copy of an order made under subsection (2) to the Council.

### 59 Making of business codes of practice

- (1) The Minister may make business codes of practice which specify standards for the conduct of domestic animal businesses.
- (2) A business code of practice may be prepared for any particular kind of business.
- (3) A business code of practice may specify all or any of the following—
  - (a) standards for the keeping, treatment, handling and care of animals; (b) standards for the facilities, equipment and conditions at business premises; (c) standards for the procedures and practices to be adopted with animals.
- (4) A business code of practice may apply, adopt or incorporate any matter contained in any document, standard, rule, specification or method, formulated, issued, prescribed or published by any person whether—
  - (a) wholly or partially or as amended by the code; or
  - (b) as formulated, issued, prescribed or published at the time the code is made or at any time before then.

### 63A Non-compliance with business code of practice an offence

- (1) A person or body must not conduct a domestic animal business that does not comply with the relevant business code of practice made under section 59.
- (2) A Council is deemed to have contravened subsection (1), and is separately liable for the penalty that applies to such a contravention, if—
  - (a) a person or body conducts all or part of a domestic animal business on behalf of the Council under an agreement under section 84Y; and
  - (b) the person or body has contravened subsection (1) in the conduct of that business; and
  - (c) the Council, or any member of its staff who was responsible at the relevant time for overseeing the agreement or the conduct of the business, was aware, or ought to have been aware, that the contravention—
    - (i) was about to occur; or (ii) in the case of an ongoing contravention, was occurring.
- (3) If a body, being a partnership or an unincorporated body, contravenes subsection (1), each reference to the body in this section is to be construed as a reference to each member of the partnership, or of the committee of management of the unincorporated body (as the case may be).