

Domestic Animals (Implanting Microchips in Dogs and Cats) Code of Practice 2008 (No 2)

Disallowable instrument DI2008–73

made under the

Domestic Animals Regulation 2001, section 16 (Code of practice about implanting identifying microchips)

EXPLANATORY STATEMENT

Explanation of the formal instrument.

The Domestic Animals (Implanting Microchips in Dogs and Cats) Code of Practice 2008 (No 2) is made under section 16 of the Domestic Animals Regulation 2001. The instrument records the Minister’s approval of the “Code of Practice for Implanting Microchips in Dogs and Cats 2008” (the Code of Practice) which is attached to the instrument.

The instrument revokes Domestic Animals (Implanting Microchips in Dogs and Cats) Code of Practice 2008 (No 1), which due to an administrative error, was made before the Domestic Animals Amendment Regulation 2008 (No 1), which inserted new section 16 into the Domestic Animals Regulation 2001.

Explanation of the Code of Practice attached to the instrument

Overview

The objective of the Code of Practice is to make procedures for implanting microchips in dogs and cats in the Territory consistent with the regulatory framework and industry best practice which applies in Victoria and New South Wales. An identification process relying on implanting microchips in dogs and cats requires:

- reliable microchips that enable them to be read by scanners;
- the microchip is inserted permanently in the animal enabling the microchip to be easily found subsequently and read;
- the digital information recorded on the microchip needs to be cross-referenced to an external database which holds the information on the animal and its owner; and
- the information held on the database (or databases) needs to be reliable and readily accessible to persons needing to know the identity and other details about the animal.

The ACT Government is not establishing its own government-run database system for storage of information about microchipped dogs and cats as applies in New South Wales, preferring instead to utilise and facilitate the use of the existing privately-run registries which operate from Victoria and New South Wales. The longer-term goal is to facilitate the growth and use of privately-run registries so they can operate effectively Australia-wide.

The best regulatory model for compulsory identification of dogs and cats by implanting microchips supported by privately-run registries was found in the:

- *Domestic (Feral and Nuisance) Animals Act 1994* Vic. (the Victorian Act) and the
- *Domestic (Feral and Nuisance) Regulations 2005* Vic. (the Victorian Regulations).

Rather than trying to replicate the Victorian Act and Regulations in regard to implanting microchips which would require considerable cross-checking, regulation of the implanting of microchips in the Territory is being achieved by means of a mandatory Code of Practice.

Under subsection 16(3) of the *Domestic Animals Regulation 2001* a person who implants an identifying microchip in a dog or cat commits an offence if he or she does not comply with the Code of Practice. The maximum penalty for this offence is 10 penalty units. The offence is a strict liability offence meaning a person can be held liable for not complying with the Code regardless of any wrongful intent or negligence.

Provisions of the Code of Practice in detail

1. **Background** outlines the basis of and use for the Code of Practice.
2. **Dictionary** at the end of the Code of Practice forms part of the Code.
3. **Qualification of authorised identifiers** specifies that according to the Regulation, persons qualified to implant microchips in a dog or cat are either veterinary practitioners or authorised identifiers approved by the Registrar. This specification is equivalent to section 63T of the Victorian Act.
4. **Obtaining the prescribed identifying particulars** provides that a person must not implant an identifying microchip in a dog or cat unless the prescribed identifying information have been obtained from the owner of the animal and verified by means of a declaration signed by the owner of the animal. This provision is equivalent to section 17 of the Victorian Regulations.
5. **Advising of charges and services** provides that a person should not implant an identifying microchip in a dog or cat without first advising the keeper of the animal about fees that may apply for services provided to the keeper by the privately-run registry which will store the identifying information about the dog or cat on behalf of the animal's owner. This provision is equivalent to section 18 of the Victorian Regulations.

- 6. Scanning for existing implanted and functioning identifying microchips** specifies that a person must not implant an identifying microchip in a dog or cat without first scanning the animal to determine whether any identifying microchips previously implanted in the animal have been detected. If a previously implanted microchip is detected, the person should notify the registry holding the records for the animal and also notify the registry of the name, address and telephone number of the keeper of the animal which has presented the animal for microchipping a second or subsequent time. The person must not implant a new identifying microchip unless he or she is satisfied the implanted microchip is not functioning correctly, does not uniquely identify the animal, has not migrated outside the scanned areas of the animal, or the microchip is not a microchip complying with the Domestic Animals (Identifying Microchip for Dogs and Cats) Approval 2008 (No 2). This provision is equivalent to sections 17 and 19 of the Victorian Regulations.
- 7. Checking an identifying microchip before implanting** specifies that a person must not implant an identifying microchip unless it is first scanned to confirm it is functioning correctly, that the microchip's unique identifying number tallies with the number shown on its package, that the microchip was packaged in sterile packaging and that it was kept sterile until scanning prior to implantation. This provision is equivalent to subsections 22(1) and 22(2) in the Victorian Regulations.
- 8. Implanting an identifying microchip** specifies that a person who implants an identifying microchip in a dog or cat must implant the microchip at the correct location and orientation and must scan the microchip immediately after implantation to confirm it is functioning properly. This provision is equivalent to subsection 22(3) of the Victorian Regulations.
- 9. Provision of information by implanters** specifies that a person who has implanted an identifying microchip in a dog or cat must provide the prescribed identifying information of the cat or dog to the appropriate registry storing the identifying information within two working days of implantation. The person who has implanted an identifying microchip in a dog or cat must retain a copy of the identifying information until he or she is aware the information has been recorded by the registry storing the identifying information. This provision is equivalent to section 63G of the Victorian Act and section 23 of the Victorian Regulations.
- 10. Provision of identifying particulars to certain persons** specifies that a person who has implanted an identifying microchip in a dog or cat must not provide the identifying information to any person unless that category of person is listed in paragraph 10.1(a)(i) to (vi) of the Code and the owner of the animal has consented to provision of the information for the purpose of reuniting the animal with its owner. This provision is equivalent to section 63H(a) and (b) of the Victorian Act.
- 11. Removing an identifying microchip** specifies that a person, other than a veterinary surgeon, must not remove an identifying microchip from a dog or cat. If a veterinary surgeon removes an identifying microchip for therapeutic reasons, he or she must take reasonable steps to notify the appropriate registry which is storing the identifying information for the dog or cat. This provision is equivalent to section 21 of the Victorian Regulations.

12. Devices implanted before the commencement date specifies that if a dog or cat has been implanted with an identifying microchip before the commencement date of the Regulation, that implantation is deemed to be an implantation sufficient for the purposes of the *Domestic Animals Act 2000*, the Domestic Animals Regulation 2001 and the Code of Practice. This provision is equivalent to section 63Y of the Victorian Act.