

Dog and Cat Management Board

Exemptions Policy



Government of South Australia
Dog and Cat Management Board

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Dog and Cat Management Board

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Policy

1. Legislative Context

Section 80A of the *Dog and Cat Management Act 1995* (the Act) allows the Board to grant exemptions from provisions in the Act.

80A—Board may grant exemptions from Act

- (1) The Board may, by notice in writing, on application or on its own initiative, exempt a person or body from the operation of a specified provision or provisions of this Act.*
- (2) An application must—*
 - (a) be made in a manner and form determined by the Board; and*
 - (b) be accompanied by such documentation and information as the Board may reasonably require; and*
 - (c) be accompanied by the fee fixed by the Board.*
- (3) An exemption—*
 - (a) may be granted or refused at the discretion of the Board; and*
 - (b) may operate indefinitely or for a period specified in the instrument of exemption; and*
 - (c) is subject to any conditions specified in the instrument of exemption.*
- (4) The Board may, by notice in writing, vary, revoke or add a condition of an exemption.*
- (5) The Board may, in its discretion, revoke an exemption for a contravention of a condition of the exemption, or for any other reason it thinks fit.*

2. Policy Statement and Purpose

The Board will consider all exemption applications on a merit basis, and ensure that exemptions granted are supported by evidence and based on a genuine need for exemption from a specified provision (or provisions) from the Act.

The purpose of this policy is to:

- (a) Set out the requirements for applying for an exemption under Section 80A of the Act; and
- (b) Set out the criteria that the Board will consider when assessing applications and determining whether or not to grant an exemption.

3. Definitions

Applicant	The person applying for an exemption on their own behalf or on behalf of an organisation/body
Board Staff	Staff of the Dog and Cat Management Board
Exemption	To be exempt from a specific obligation imposed under the <i>Dog and Cat Management Act 1995</i>
Gazette	The SA Government Gazette, a weekly record of proceedings by the State Government and Local Government authorities
The Act	<i>The Dog and Cat Management Act 1995</i>
The Board	The Dog and Cat Management Board
Regulation(s)	<i>Dog and Cat Management Regulations 2017</i>

4. Scope

This policy applies to applicants seeking exemption from a specific provision (or provisions) of the Act. It also applies to the Board and Board Staff when assessing and making decisions about applications for exemption.

Policy Implementation

5. Exemptions covered elsewhere

This policy does not apply to exemptions that are covered directly in the Act, the *Dog and Cat Management Regulations 2017* (the Regulations), or within another Board policy.

The following exemptions are covered elsewhere:

- Exemption from desexing for working livestock dogs (as defined in the Act) – refer to Section 42D of the Act.
- Greyhound muzzle exemptions – must be applied for in accordance with the Board’s ‘Approval of Greyhound Muzzle Exemptions’ policy.
- Exemption from desexing for certain persons and bodies, and dogs and cats listed in Regulation 12.
- A person or body, or dog or cat, of a class declared by the Board by notice in the Gazette to be exempt from the operation of Sections 42A (microchipping) refer to Regulation 10, and see the list of Gazetted exemptions on the Board’s website.
- The owner of a dog or cat who has a written notice from a registered veterinary surgeon (as defined in the Act) which exempts them from Section 42A, 42E, or 70 of the Act because microchipping or desexing the dog or cat would (a) pose an undue risk to the health of the dog or cat or (b) adversely affect the growth, development or wellbeing of the dog or cat – refer to Regulation 13.

If an exemption request falls under one of the above categories, an application for a Board granted exemption under this policy is not required.

6. Applications for exemption

Applications for exemption must be made in accordance with this policy and on the ‘Exemption Application Form’, which is available from Board Staff.

It is the responsibility of the applicant to provide sufficient evidence that demonstrates a genuine need for an exemption from the particular provision (or provisions) of the Act requested.

Board Staff may require an applicant to provide further information or additional evidence to support their application, before the application is permitted to go to the Board for consideration.

The Board does not charge a fee for an application for exemption.

7. Assessment criteria for applications

The Board and Board Staff will assess the merits of all applications, with regard to the following criteria:

1. The extent to which the exemption may impact on the Objects of the Act, which are:
 - (a) *to encourage responsible dog and cat ownership;*
 - (b) *to reduce public and environmental nuisance caused by dogs and cats;*
 - (c) *to promote the effective management of dogs and cats.*
2. The objectives of the Board's Strategic and Operational Plan.
3. Whether or not there is sufficient evidence that demonstrates a genuine need for an exemption from the particular provision (or provisions) of the Act requested. Responsibility for supplying sufficient evidence is on the applicant.
4. Whether or not there is another provision of the Act which already sufficiently addresses the reason for requesting the exemption.
5. Whether or not there are any safety concerns or other risks that would arise from granting the exemption.
6. The extent to which the requested exemption may impact upon the interests of:
 - the applicant;
 - the dog or cat;
 - council officers (including whether the granting of an exemption would have an adverse regulatory, administrative or other resourcing impact);
 - members of the public;
 - or any other party that may be affected if the exemption were granted.
7. The length of time which would be appropriate for the exemption, if granted.
8. Whether or not any conditions should be placed on the exemption, if granted.
9. Whether or not the applicant will be able to comply with the Act in the future and, if so, would no longer require an exemption. If so, whether conditions should be imposed which guide the applicant towards compliance with the Act, in the mid to long term.

Applications should be dealt with in accordance with administrative law principles, including:

- The decision-maker should not take into account extraneous matters.
- The applicant must be afforded procedural fairness, including knowledge of all of the matters that will be taken into account by the Board and the reasonable opportunity to make submissions on these issues. This does not include a right to make verbal submissions before the Board.

8. Notification of outcome and publication of exemptions granted

Once the Board has made a decision, the applicant will be notified of the outcome in writing. Applicants who are granted an exemption will be issued a 'Certificate of Exemption' by the Board, as proof of their exemption.

All exemptions granted will be published in the Gazette and on the Board's website. Details published will include:

- the full name of the applicant;
- provision (or provisions) of the Act for which the exemption was granted;
- the date the exemption was granted; and
- the expiry date of the exemption (if any).

9. Conditions of exemption

The Board may place conditions upon any exemption granted. The Board may also specify the length of time an exemption is valid.

If an exemption is granted subject to conditions and/or a specified duration, the applicant will be advised in writing.

At any time, the Board may vary, revoke, or add to the conditions of a granted exemption. If this occurs, the Board will notify the applicant in writing.

10. Revocation of an exemption

The Board has the discretion to revoke an exemption at any time, for contravention of a condition or for any reason the Board thinks fit. An applicant will be notified in writing if their exemption is revoked.

All revoked exemptions will be published in the Gazette and on the Board's website, including the details listed in section 8 of this policy.

11. Board initiated exemptions

The Board may, on its own initiative, exempt a person or body from the operation of a specified provision (or provisions) of the Act.

The Board will give consideration to the criteria outlined under section 7 of this policy when determining the merits of a Board initiated exemption, and will publish any exemption granted in the Gazette and the Board's website.

12. Record keeping

Board staff will keep records of all exemption applications received, exemptions granted, and correspondence relating to exemptions.

13. Appeals on outcome of application

If an applicant wishes to appeal the Board's decision on their application for exemption, the applicant must make their appeal in accordance with South Australian legislation.

If an application to the Board has been unsuccessful, the applicant will be informed of their rights to appeal and provided with information on how to make an appeal.