# Animal Management (Protecting Puppies) and Other Legislation Amendment Bill 2016

# Explanatory Notes

## Short title

The short title of the Bill is the Animal Management (Protecting Puppies) and Other Legislation Amendment Bill 2016 (the Bill).

## Policy objectives and the reasons for them

Amendment of *Animal Management (Cats and Dogs) Act 2008* (AMCD Act)

Significant animal welfare issues can arise if breeding dogs and their progeny are housed and/or managed in conditions that fail to meet the dogs' behavioural, social, psychological and/or physiological needs.

The objective of the amendments to the AMCD Act is to identify and locate breeders so that existing powers under the *Animal Care and Protection Act 2001* (ACP Act) can be used to shut down cruel 'puppy farms' (where breeders place profit ahead of the welfare of dogs) and protect dogs from cruelty.

It has been estimated that there may be up to 100 puppy farms in Queensland. The biggest barrier to shutting down cruel puppy farms has been the inability to locate these unscrupulous breeders.

The proposed amendments to the AMCD Act are based on the Government's election commitment, *Protecting puppies – Labor's plan to shut down cruel puppy farms*, to establish a compulsory registration scheme for dog breeders. The amendments are also informed by the results of public and targeted stakeholder consultation in mid-2015. Consultation resulted in a more comprehensive breeder registration scheme being proposed than that originally envisaged in Labor's policy paper. There was strong community support for compulsory registration for all dog breeders. There was also strong support for the display of the breeder registration ID number in advertisements and recording of the breeder registration ID number against the dog's microchip.

Amendment of ACP Act

The objective of the Bill with regard to the amendment of the ACP Act is to clarify the offence of keeping or using an animal as a kill or lure for blooding or coursing a dog.

Amendment of *Biosecurity Act 2014* (Biosecurity Act)

The objectives of the Bill with regard to the amendments to the Biosecurity Act are to:

- align terminology and definitions of material prohibited from being fed to ruminants and pigs and poultry with nationally aligned and commonly understood terms and provide a system for timely exceptions to such material to be made;
- clarify the correct instrument for which a person should apply when they seek to move particular biosecurity materials or a carrier that are the subject of biosecurity zone regulatory provisions;
- reduce the regulatory impost on keepers of 100 or more aviary birds;
- provide for restrictions to be imposed on designated animals, designated biosecurity matter and designated places which can operate independently of each other;
- provide for more limited and targeted release of information on registers;
- afford review rights to recipients of biosecurity orders;
- reflect changes in the risk posed by some pests and diseases since the passage of the Act; and
- make minor technical amendments.

# Achievement of policy objectives

Amendment of AMCD Act

The Bill will achieve its objectives principally by requiring a person who breeds a dog to register as a breeder (if they are not already registered as a breeder) within 28 days after the day the dog is born, unless they have a reasonable excuse. A person who registers as a breeder will be issued a 'breeder ID number'.

There will be exemptions to the registration obligations where the breeder is:

- an accredited breeder of an approved entity;
- they are a primary producer who bred a dog from a working dog for the purpose of using the dog as a working dog or supplying the dog to another primary producer to use as a working dog; or
- the person is a member of a prescribed class of persons.

The Bill will provide that the Minister may prescribe an approved entity if the Minister is satisfied that the entity conducts an accreditation scheme for persons who breed dogs, gives a unique identifying number to each accredited person (their 'accreditation number'), and is able and willing to give the chief executive information about its accredited breeders.

The Bill will also achieve its objectives by regulating the supply, and advertising for the supply, of dogs by requiring (unless there is a reasonable excuse) that:

- a dog must not be supplied or advertised for supply unless there is a relevant supply number for the dog (either the breeder ID number, or the person's accreditation number or the unique reference number given interstate (if the person is a recognised interstate breeder) or an exemption number); and
- the relevant supply number must be:
  - included in the advertisement
  - recorded against the dog's PPID (microchip); and
  - given to a person who receives the dog.

These minor impositions on those who supply and advertise dogs for supply will help identify (by exception) dogs that are being bred and supplied outside the breeder registration scheme. Also the PPID information on breeders will provide valuable information that can be examined to target monitoring activities.

A person will be exempted from these obligations on those who supply or advertise dogs for supply if they are a person who is a primary producer who breeds a dog from a working dog and advertises the dog for supply only to a primary producer to be used as a working dog. There are also some existing exemptions from microchipping requirements under the AMCD Act (a government entity dog, working dogs, or other prescribed classes of dogs) and these are reflected in exemptions from the requirement to record the supply number for the dog against its microchip.

Mandatory dog breeder registration, supported by provision of breeder identification in advertising and at the time of supply and recording breeder identification against the PPID, will be an effective means of identifying dog breeders. Once the location of the breeders is known the existing powers under the ACP Act are considered to be sufficient to enable action to be taken about the welfare of dogs.

To reflect these amendments and their purpose, the Bill will also include the promotion of responsible breeding of dogs as an additional purpose of the AMCD Act. It will also expand the ways that the purposes of the AMCD Act can be achieved, by including the imposition of registration obligations on dog breeders, regulating the supply of dogs including advertisements for the supply of dogs, and the sharing of information about dog breeders with particular agencies and entities that are responsible for animal welfare.

Amendment of ACP Act

The Bill will achieve its objective with regard to the amendment of the ACP Act by clarifying that the offence related to 'blooding' a dog applies where an animal is kept or used as a kill or a lure to give a dog its first taste or sight of blood without being limited to giving a dog its first taste or sight of blood.

Amendment of Biosecurity Act

The Bill will achieve its objectives with regard to the amendment of the Biosecurity Act by:

- amending the terminology and definitions for *restricted animal material* and *prohibited feed for pigs and poultry* such that they are in alignment with agreed national definitions and exceptions to the definitions can be prescribed by regulation;
- clarifying under what circumstances a person may not be granted a biosecurity instrument permit;
- removing the registration requirement for owners of 100 or more aviary birds that present comparatively low risk of avian disease transmission and amending the terminology to more appropriately describe those birds;
- inserting new and amended provisions which provide for inclusion of, compliance with and removal of entries on the biosecurity register for restricted places, restricted animals and restricted biosecurity matter;

- amending provisions prescribing what information the chief executive must keep on the biosecurity register and what information may be disclosed or published;
- requiring an authorised officer to provide an information notice when they issue a biosecurity order, thus triggering review rights for the recipient;
- amending the schedules of prohibited and restricted matter; or
- making other minor amendments.

# Alternative ways of achieving policy objectives

Amendment of AMCD Act

The following options were considered against the objective of identifying and locating breeders so that cruel puppy farms can be shut down and dogs can be protected from cruelty:

- mandatory registration of ALL dog breeders (with provision for specific exemptions), plus mandatory display of breeder identification in advertising and at point of sale, with breeder identification recorded against the microchip;
- mandatory registration of breeders with 20 or more dogs, with breeder identification requirements as above; or
- retaining the status quo.

The first option (which is reflected in the Bill) - compulsory registration of all dog breeders (unless specifically exempt), along with mandatory display of breeder identification in advertising and at point of sale, and recording breeder identification against the microchip - would provide an effective means of identifying puppy farms. In most respects, it is consistent with the policy paper *Protecting puppies – Labor's plan to shut down cruel puppy farms* released by the Queensland Labor Party in December 2014.

A state wide scheme capturing all those who breed a dog is proposed as the most effective way of ensuring the welfare of dogs used for breeding and their progeny, coupled with a strong public awareness campaign. Importantly, an online survey conducted in August-September 2015 and stakeholder consultation revealed strong public support for an inclusive registration scheme applying to all or most breeders.

Mandatory microchipping already applies to all dogs (except a government entity dog, working dogs, or other prescribed classes of dogs) from 12 weeks of age or when supplied (if earlier). The proposal involves adding one field to the permanent identification device data already required to be included in the microchip registry database against that PPID. The cost to record the additional microchip registration data would be minimal, and is estimated to be about $0.60c per puppy. Similar information is expected to be required for breeder registration schemes in other jurisdictions.

Very preliminary estimates suggest the proposed regulation of dog breeders (not including registration fees which are not proposed to be charged for approximately two years – see *Estimated cost for government implementation* below) would add only a few dollars to the cost of a puppy if all the breeders costs (including registration procedures and amending advertisements to include breeder identification) were passed on to purchasers. Puppies generally sell for several hundred dollars each.

The second option is generally similar to the first option above including a compulsory state-wide breeder registration scheme. However, in contrast to the first option, the breeder registration scheme would apply only to dog breeders who hold 20 dogs so imposes a regulatory burden on fewer persons.

There appears to be no evidence that the number of dogs kept by breeders is in itself a factor which determines animal welfare outcomes of breeding animals or their puppies. There is just as much potential for animal cruelty in circumstances where breeders have fewer than 20 dogs. Crucially, a public awareness campaign urging consumers to buy only from registered breeders could be compromised if many breeders (those with less than 20 dogs) were not required to be registered. As a result, limiting the scope of the breeder registration scheme to breeders with 20 or more dogs could risk compromising the effectiveness of the scheme, and this approach is therefore regarded as far less effective than the first option.

Retaining the status quo would impose no new regulation and no new costs on government, breeders or purchasers of puppies. However this option would fail to meet the policy objective of shutting down cruel puppy farms. Without a breeder registration scheme, puppy farms and other unscrupulous breeders would continue to operate undetected, resulting in the continuation of irresponsible animal management practices and adverse impacts on animal welfare.

Amendment of ACP Act and Biosecurity Act

Amendment of the schedules in the Biosecurity Act in relation to prohibited matter and restricted matter will reflect changes in the risk posed by some pests and diseases since the passage of that Act. Although the Biosecurity Act provides that a regulation or declaration can be made about prohibited matter and a regulation may be made about restricted matter, these powers can only be exercised in certain circumstances. The circumstances do not exist for the pests and diseases proposed to be listed as prohibited matter and restricted matter by the Bill.

Legislative amendment is the only way to achieve the objectives of the other miscellaneous amendments to the ACP Act and the Biosecurity Act.

# Estimated cost for government implementation

Amendment of AMCD Act

Estimation of costs for a breeder registration scheme are necessarily very approximate, particularly because there is limited information available about the number of dog breeders in Queensland and it is not known how many breeders would not be required to register direct because they are accredited breeders of an approved entity (which provides relevant breeder details to the chief executive).

As a very preliminary estimate, the cost of establishment and operation of the government's online breeder registration system with public interface has been estimated at approximately $250,000 – $300,000 plus ongoing maintenance of about $2,000 per month. It is estimated two full time equivalent officers would be required initially, dropping back to one officer, to

look after the database, respond to public enquiries, and deal with any operational policy matters.

A strong public awareness program to advise the public not to purchase or accept puppies unless from a registered breeder will be an essential part of the scheme to identify cruel puppy farms and other unscrupulous breeders. A comprehensive public awareness campaign is proposed, including direct mail, social media, advertisements, media engagement (press releases and interviews), printed information, attendance at stakeholder meetings, forums and expos, and partnering with key industry bodies and enforcement agencies. It is estimated the education and awareness campaign would require a budget of approximately $150,000.

The cost of establishment and operation of the state wide dog breeder registration scheme, including the education and awareness campaign will be met from the existing budget allocation to the Department of Agriculture and Fisheries (DAF) as animal welfare is core business.

It is proposed that no breeder registration fees would be charged for approximately two financial years from the proposed commencement (i.e. no fees before 1 July 2018). This will help to encourage registration and compliance with the scheme. If registration fees are considered in the future to assist in cost recovery, then any registration fees would be the subject of public consultation, including a Regulatory Impact Statement (RIS).

In terms of compliance, local governments are currently responsible for regulating the registration, identification and supply of dogs within their areas in accordance with the provisions of the AMCD Act. The AMCD Act allows a local government to conduct an inspection program to monitor compliance with the Act; this would allow the identification of non-compliant breeders as well as the existing dog registration and other dog management requirements.

However, it is envisaged DAF and RSPCA Qld would provide support for these activities, and the inspection program could be incorporated into a strategic multi-agency agreement between local government, DAF and RSPCA Qld to minimise the regulatory burden on each organisation. DAF and RSPCA Qld officers, appointed under the ACP Act as inspectors and/or authorised officers, would continue to be responsible for ensuring the welfare of dogs used for breeding and their progeny.

In the short to medium term, there could be a spike in enforcement costs under the ACP Act if an increased number of puppy farms are identified that have unacceptable animal welfare. It is not possible to quantify these costs, but costs may be significant in terms of investigations, prosecutions and expenses caring for animals seized from puppy farms while legal proceedings are brought against the owners. For example, in 2008-09, 12 large-scale puppy farms were investigated by animal welfare inspectors in Queensland and more than 750 dogs were rescued. RSPCA Qld and the State Government incurred millions of dollars in expenses caring for animals seized from these puppy farms while legal proceedings were brought against the respective owners. For example, in one case involving 104 dogs seized from a puppy farmer, RSPCA Qld incurred costs of almost $1.8 million in boarding and veterinary expenses with pro bono legal support valued at over $500,000.

However, in the longer term, as the breeder registration scheme is implemented and public awareness about the need for breeder identification becomes widespread, these costs should reduce, as puppy farms are progressively identified and closed down.

Miscellaneous amendments of ACP Act and Biosecurity Act

DAF may incur some additional costs in undertaking internal reviews as a consequence of giving information notices for biosecurity orders which will trigger review rights under the Biosecurity Act. Similarly, the Queensland Civil and Administrative Tribunal (QCAT) may incur some additional costs reviewing internal review decisions. However, the volume of applications for review and hence the costs, is likely to be extremely low.

The costs to government arising from other miscellaneous amendments to the ACP Act and the Biosecurity Act will be minimal.

All costs related to these amendments will be funded from existing budget allocations.

# Consistency with fundamental legislative principles

The Bill has been drafted with due regard to the fundamental legislative principles (FLPs) as defined in section 4 of the *Legislative Standards Act 1992* (LSA). Potential breaches of FLPs are addressed below.

Part 3 of the Bill – amendment of AMCD Act

**Legislation should have sufficient regard to rights and liberties of individuals**

**Legislation should not, without sufficient justification, unduly restrict ordinary activity – LSA s4(2)(a)**

***Clause 11 - New offences***

- section 43E (Registration obligation)
- section 43Z (Supplier must know dog has relevant supply number)
- section 43ZB (Advertiser must know dog has relevant supply number)
- section 43ZC (Advertisement must include relevant supply number)
- section 43ZF (Supplier of dog must give particular details)

These provisions require that anyone (other than the exempted persons such as accredited breeders) who breeds a dog must be a registered breeder, and whoever supplies, or advertises to supply a dog must have and provide details of the supply number (generally the breeder ID number) in advertisements, and must have the supply number recorded against the dog's microchip.

Breeding dogs and supplying them to others could be considered an ordinary activity which is restricted by the obligations in the proposed amendments. Further, the Office of Queensland Parliamentary Council's publication *Fundamental Legislative Principles: the OQPC Notebook* states on page 118, "Regulation of business, although prolific, is an interference in a right to conduct business in the way in which the persons involved consider appropriate.

Therefore the potential FLP issue is whether the legislation unduly restricts ordinary activity without sufficient justification; the right to conduct business without interference; and a statutory imposition of condition on advertising. The restrictions are justified, however, because the new offence provisions in clause 10 are the means of identifying and locating dog breeders to enable the monitoring of the welfare of dogs that are involved:

- Proposed section 43E- The requirement to register as a registered breeder is justified because it is an effective means of identifying puppy farms. Puppy farms and other unscrupulous breeders are not easy to identify - currently identification of animal welfare issues related to problem puppy farms rely on complaints from the public. Once the location of puppy farms is known, existing powers under the ACP Act should be sufficient to enable action to be taken about the welfare of dogs and puppies. Registration is not required if the dog that has been bred dies within 28 days after it is born.

- Proposed section 43Z - The requirement to microchip any dog supplied already applies. These additional requirements - that a person cannot supply a dog unless there is a relevant supply number, and the relevant supply number is included in the PPID information kept for the dog under section 36 - are justified because they help identify (by exception) dogs that are being bred and supplied outside the breeder registration scheme. Also the PPID information on breeders will provide valuable information that can be examined to target monitoring activities. For example, it will show the number of puppies being bred by each registered breeder.

- Proposed section 43ZB - The requirements that a dog cannot be advertised for supply unless there is a relevant supply number for the dog and that the relevant supply number must be included in the PPID information kept for the dog under section 36, are justified because they will assist in identifying (by exception) dogs that are being bred and supplied outside the breeder registration scheme. Also the PPID information on breeders will also provide valuable information that can be examined to target monitoring activities. For example, it will show the number of puppies being bred by each registered breeder.

- Proposed section 43ZC - The requirement that a person who advertises a dog for supply must include in the advertisement the relevant supply number for the dog unless the person has a reasonable excuse is justified because it will assist in identifying (by exception) dogs that are being bred and supplied outside the breeder registration scheme.

- Proposed section 43ZF - The requirement that a person who supplies a dog to another person must give the other person in writing the relevant supply number for the dog, and the supplier's name (or the employer's or principal's name if the supplier is an agent or employee of a business supplying dogs) is justified because it will assist in locating the suppliers and breeders by enabling members of the public to check that the breeder has been appropriately identified through registration and, if not, enable members of the public to identify them to the government for investigation for the purposes of ensuring the integrity of the registration scheme which is directed at protecting the welfare of dogs and puppies.

**Legislation should have sufficient regard to rights and liberties of individuals including the right to privacy and confidentiality – LSA s4(2)(a)**

***Clause 16 - New section 172E (Breeder register)***

The potential FLP issue is that the section breaches the principle that legislation should have sufficient regard to the rights and liberties of individuals including the right to privacy and confidentiality because the chief executive may publish personal details in the breeder register on the department's website.

The details intended for publication will be restricted to the person's name, the person's breeder ID number and or accreditation number, the period for which the person is registered or accredited, the local government area in which the person's place of residence is located and either the person's contact telephone number or email address as decided by the breeder.

Publication of these details is justified so that a potential receiver of a dog can confirm that the person supplying a dog is the registered breeder of the dog. This will assist members of the public to decide whether or not to receive a dog based on whether or not the supplier is registered.

There will be no public access to residential addresses and proposed section 173C provides that if the chief executive is satisfied that the personal safety of a person would be at risk, a person's details will not be publically available either on the breeder register or in a copy of information from the breeder register.

**Consequences imposed by legislation should be proportionate and relevant to the actions to which the consequences are applied by the legislation – whether the penalties are of an appropriate level – LSA s4(2)(a)**

***Clause 11 - Part 2 New offences***

- section 43E (Registration obligation)
- section 43Z (Supplier must know dog has relevant supply number)
- section 43ZB (Advertiser must know dog has relevant supply number)
- section 43ZC (Advertisement must include relevant supply number)
- section 43ZF (Supplier of dog must give particular details)

The potential FLP issue is whether the penalties are of an appropriate level because these new offences impose a relatively high maximum penalty of 50 penalty units. The maximum penalty is justified because an up to date record of persons breeding and the identification of persons supplying puppies and dogs is essential for locating breeders for monitoring purposes. Locating breeders is the pre-requisite for closing down cruel puppy farms.

The proposed penalty of 50 penalty units for failing to register as a breeder compares with the maximum penalty of 20 penalty units for failing to register a dog with a local government under the AMCD Act. However, this is appropriate because it reflects that dog registration is directed at animal management compared to breeder registration which is directed at animal welfare.

**Use of information for a purpose other than under the Act under which it was obtained – LSA s4(2)(a)**

***Clause 26 - New section 207C (Use of information by particular persons)***

The section allows information obtained by persons under proposed sections 173B or 207B to be used when performing any function under the AMCD Act or ACP Act including monitoring and enforcement, or if the person is a police officer or an authorised officer under the *Racing Integrity Act 2015* in relation to an animal or an animal welfare offence. The potential FLP issue is whether there is sufficient regard to the rights and liberties of a person whose information is able to be used for a purpose other than under the AMCD Act. The use of the information is justified because its use is restricted to purposes dealing with matters related to animals and animal welfare and it will allow for improved detection and investigation of animal welfare offences.

**Legislation makes rights and liberties, or obligations, dependent on administrative only if the power is sufficiently defined and subject to appropriate review- LSA s4(3)(a)**

***Clause 11 - New section 43G (Registration of person as registered breeder)***

The potential FLP issue is whether the administrative power is subject to appropriate review because there is no requirement for the chief executive to give an information notice to an applicant. This is justified on the basis that there will be minimal requirements for the registration of a person as a registered breeder and there is no real discretion afforded to the chief executive that warrants an information notice. Any person, other than an ineligible person, may apply to the chief executive to be registered. An ineligible person is clearly defined in section 43D. If an application accords with proposed section 43F – that is the person is not an ineligible person, such as a minor, and the application is made in the prescribed manner - then under proposed section 43G the chief executive must register the person as a registered breeder.

**Legislation is consistent with the principles of natural justice – LSA s4(3)(b)**

***Clause 11 - New section 43U (Immediate suspension)***

The potential FLP issue is whether the legislation is consistent with the principles of natural justice because the chief executive may suspend registration as a registered breeder immediately. This immediate suspension power is necessary and its exercise will be limited to circumstances where the chief executive believes a ground exists to suspend the registration because there is an immediate and serious risk to the welfare of dogs or harm to the effectiveness of the registration.

Appropriate safeguards will ensure that the process as a whole affords natural justice. The suspension would take effect when the person is given an information notice for the decision (triggering provisions that allow an application to be made for a stay or review of the decision) and a show cause notice. The suspension ceases to operate if the chief executive cancels the remaining period of suspension, or the show cause notice is finally dealt with, or 28 days after the notices have been given to the person, whichever is the earliest.

**Legislation does not reverse the onus of proof in criminal proceedings without adequate justification – LSA s4(3)(d)**

***Clause 11 – New section 43Y (Supplier must ensure cat or dog is implanted)***

The potential FLP issue is whether the legislation reverses the onus of proof in criminal proceedings without adequate justification because section 43Y imposes an additional matter for a defendant to prove in the defence for the offence of supplying a dog that is not implanted with a PPID. This requirement is justified because there are no means of identifying and locating breeders if the dog, when supplied, does not have a PPID.

***Clause 11 - New offences***

- section 43E (Registration obligation)
- section 43Z (Supplier must know dog has relevant supply number) and 43ZA (Exceptions for supply of dog)
- section 43ZB (Advertiser must know dog has relevant supply number) and 43ZD (Exceptions for advertising supply of dog)
- section 43ZC (Advertisement must include relevant supply number) and 43ZD (Exceptions for advertising supply of dog)
- section 43ZF (Supplier of dog must give particular details)

The potential FLP issue in relation to these new offence provisions is whether the legislation reverses the onus of proof in criminal proceedings without adequate justification. The offence provisions provide that a person does not commit an offence if the offence provision cannot be satisfied in the prescribed circumstances. The person would bear the onus of proof that the relevant prescribed circumstances existed. The reversal of the onus of proof is justified because they involve matters which would be within the defendant's knowledge and/or on which evidence would be available to them.

***Clause 25 – New section 199A (Evidentiary aid – certificate by chief executive)***

The potential FLP issue is whether the legislation reverses the onus of proof in criminal proceedings without adequate justification because section 199A provides that the prescribed matters are evidence of a fact. However, the provision of a certificate for the prescribed matters is only evidence of formal matters and not conclusive evidence. Therefore a defendant is given the opportunity to challenge the matters in the certificate by adducing evidence to the contrary.

**Legislation should have sufficient regard to rights and liberties of individuals by providing appropriate protection against self-incrimination– LSA s4(3)(f)**

***Clause 13 – New sections 140A (Power to require information) and 140B (Offence to contravene information requirement)***

Under new section 140A (Power to require information) an authorised officer may by notice require a person to give information about an offence. The power to give an information requirement may only be exercised if the authorised officer reasonably believes that an offence under the Act has been committed and that the person may be able to give information about the offence. Without these provisions authorised officers would not be

able to gain access to, or consider information that is essential to identifying and locating, puppy farms for the protection of dogs from cruelty.

The potential FLP issue regarding the rule against self-incrimination is avoided by section 140B (Offence to contravene information requirement) which provides that a person has a reasonable excuse not to comply with an information requirement if the information required might tend to incriminate the individual or expose the individual to a penalty.

**Legislation should have sufficient regard to the institution of Parliament**

**Legislation should only allow the delegation of legislative power only in appropriate cases and to appropriate person cases and to appropriate persons- LSA s4(4)(a)**

***Clause 11 – New sections 43E (Registration obligation) and 43W (Approved entity may be prescribed)***

Under new section 43E (Registration obligation) the obligation for a person who breeds a dog to apply to be registered as a registered breeder does not apply to a person who is an accredited breeder of an approved entity. Section 43W (Approved entity may be prescribed) provides that a regulation may prescribe an entity as an approved entity. The potential FLP issue is that these provisions effectively allow an external body (the entity) some power to determine the extent to which a person (the breeder they accredit) is subject to particular obligations under the Act.

These provisions are justified to allow flexibility in exempting accredited breeders from the regulatory burden where the risk to the integrity of the breeder registration scheme is not significant.

**Legislation should only authorise the amendment of an Act only by another Act - LSA s4(4)(c)**

***Clause 11 – New sections 43E (Registration obligation) and 43W (Approved entity may be prescribed)***

Under new section 43E (Registration obligation) the obligation for a person who breeds a dog to apply to be registered as a registered breeder does not apply to a person who is an accredited breeder of an approved entity. Section 43W (Approved entity may be prescribed) provides that a regulation may prescribe an entity as an approved entity. The potential FLP issue is that since approved entities will be prescribed by legislation, the new section 43E(3)(b)(c) may be considered to be a Henry VIII provision because the Act may potentially be amended either expressly or impliedly by the prescription of the accredited breeders. In the Scrutiny of Legislation Committee's Report on 'the use of "Henry VIII Clauses in Queensland Legislation' of January 1997, the Committee noted (at page 23 of the report) that it is appropriate that Parliament consider a general principle and that matters of detail may be left to subordinate legislation. Consistent with this approach, section 43W does prescribe the matters that the Minister must be satisfied of before making a recommendation for the making of a regulation. For example, the Minister must be satisfied the entity is able and willing to give the chief executive the relevant information of persons who become an accredited breeder or stop being an accredited breeder. That information includes a breeder's

name and address. Those details will allow the breeders to be located for compliance purposes.

These provisions are justified to allow flexibility in exempting accredited breeders from the regulatory burden where the risk to the integrity of the breeder registration scheme is not significant. Further, any regulation is subject to disallowance by the Legislative Assembly.

Part 4 of the Bill – amendment of Biosecurity Act

**Legislation should have sufficient regard to rights and liberties of individuals**

**Legislation makes rights and liberties, or obligations, dependent on administrative power only if it is sufficiently defined and subject to appropriate review – LSA s4(3)(a)**

***Clause 57 – New section 172 (Publication of information held in biosecurity register)***
***Clause 59 – New section 173A (Use of information by NLIS administrator)***
***Clause 63 – Amendment of section 379 (Register of Biosecurity orders)***
***Clause 64– Amendment of section 431 (Register)***

The replacement section 172 will enable the chief executive to decide when details on the biosecurity register kept under the Biosecurity Act, including about restricted places, restricted animals, restricted biosecurity matter, will be published on the department's website. Similarly the amendments to sections 379 and 431 will enable the chief executive to decide when details in the register of biosecurity orders and register of accredited certifiers will be published on the department's website. No guidance on how this power should be exercised is proposed but no more information will be able to be published than is currently required to be published under the relevant sections of the Biosecurity Act. Further the chief executive would be guided by the purposes of that Act in exercising the power.

New section 173A of the Bill will enable the chief executive to approve the release of information about restricted places, restricted animals or restricted biosecurity matter by the NLIS administrator. This would allow the NLIS administrator to target the release of the information to users of the system who have the most genuine need to know e.g. stockyards and abattoirs if animals are contaminated with lead. No guidance on how this power should be exercised is proposed but the information that the NLIS administrator might be able to be release is no more than the chief executive would be able to publish on the department's website - that is release in a less targeted fashion. Further the chief executive would be guided by the purposes of the Act in exercising the power.

**Legislation does not reverse the onus of proof in criminal proceedings without adequate justification – LSA s4(3)(d)**

***Clause 48 – New sections 162B and 162D***

Clause 48 of the Bill inserts, among other provisions, new sections 162B (Compliance with restricted animal restrictions) and 162D (Compliance with restricted biosecurity matter restrictions) which make it an offence, without reasonable excuse, for a person to use an animal or biosecurity matter that contravenes a restriction recorded in the biosecurity register for the restricted animal or biosecurity matter respectively. It will be a defence in both sections for the person to establish that they did not know and ought not reasonably to have

known, of the existence of the restriction or had a reasonable excuse for performing the activity that contravened the restriction. Placing the onus on the individual to prove the defence is justified because the facts that support the defence will usually be entirely within the defendant's knowledge. It would be extremely difficult, if not impossible, for the prosecution to prove these matters in the negative.

**Legislation should have sufficient regard to the institution of Parliament**

**Legislation allows the delegation of legislative power only in appropriate cases and to appropriate persons – LSA s4(4)(a)**

***Clause 48 – New sections 162A and 162C***

Clause 48 of the Bill inserts, among other provisions, new sections 162A (Inclusion of restricted animal entry in biosecurity register) and 162C (Inclusion of restricted biosecurity matter entry in biosecurity register) which will enable the chief executive to declare a restricted animal or restricted biosecurity matter respectively. Currently, the chief executive can declare a restricted place including restrictions on an animal at the place. The power to declare a restricted animal and restricted biosecurity matter is justified because of the potential for harm, particularly where animals or matter are consumed by humans, with consequent loss of market access.

This power to declare a restricted animal or restricted biosecurity matter is safeguarded by the requirement for the chief executive to be satisfied that the animal or biosecurity matter poses a biosecurity risk. Also, the chief executive will be required to provide an information notice to both the person who keeps the animal or biosecurity matter and the occupier of the place where the animal or biosecurity matter is kept. This affords either person the opportunity to seek review of the declaration of the restriction internally and externally (by QCAT).

**Legislation should authorise the amendment of an Act only by another Act - LSA, s4(4)(c)**

***Clause 31 – New sections 45A and 45B***

Clause 31 of the Bill inserts new sections 45A (What is *prohibited feed for pigs and poultry*) and 45B (What is *restricted animal material*) which, among other things, except certain things from the definition of prohibited feed for pigs and poultry and restricted animal material respectively.

Sections 46 and 46A currently allow a regulation to prescribe circumstances where gelatine, tallow, milk and milk products or used cooking oil are excluded from the definition of restricted animal material for ruminants or restricted animal material for pigs and poultry. This regulation making power is proposed to be extended by the Bill. The effect of the exclusion is to effectively exempt a person in the circumstances from the offences in sections 46 and 46A in the Biosecurity Act on feeding and supplying restricted animal material to ruminants and prohibited feed for pigs and poultry to a pig or poultry. The fact that a regulation can disapply the operation of the offences prescribed in the Act may be a departure from fundamental legislative principles. Offsetting this, the extension of the regulation making power will enable the omission of a power of the chief executive to grant approvals

under section 46C that effectively except a person from the offences in sections 46 and 46A in the Biosecurity Act.

Both the proposed extension of the regulation making power and the approval power of the chief executive which will be replaced, reflect that there is a need for a mechanism to provide exemptions to those offences that is responsive and flexible enough to be implemented quickly without having to rely on a protracted process to amend the Act. Further, there is a national process to consider possible exemptions from the offences which provides a firm basis for decisions about the appropriate exercise of the regulation making power.

# Consultation

Amendment of AMCD Act

In December 2014, Queensland Labor made an election commitment to shut down cruel puppy farms and released the policy paper *Protecting puppies – Labor's plan to shut down cruel puppy farms*. The policy paper proposed a compulsory dog breeder registration scheme, display of breeder identification where puppies are sold, mandatory recording breeder identification against each new puppy's microchip, and compliance with breeder standards set with RSCPA Qld and Dogs Queensland.

In mid-2015, the government consulted on options for regulating dog breeding in Queensland. The consultation sought feedback on a range of strategies to protect puppies and safeguard the welfare of dogs kept or used for breeding in Queensland. It involved an online survey and meetings with key stakeholder groups.

The online survey on the regulation of dog breeding in Queensland was open for 28 days from 9 August 2015 to 6 September 2015. A total of 8,319 survey responses were received as well as 489 email submissions. There was strong support for a compulsory registration scheme that includes all breeders, mandatory display of breeder identification where puppies are sold, breeder identification against the microchip and standards setting minimum requirements for dog breeders. Meetings were also held with the key stakeholder groups in August 2015.

Face to face meetings were held with RSPCA Qld, Dogs Queensland (the principal pedigree dog breeders' association) and the Local Government Association of Queensland (LGAQ). Other stakeholders consulted included AgForce Queensland, the Australian Veterinary Association, Animal Welfare League, Pet Industry Association, South East Queensland Regional Animal Management Group, Animal Liberation Queensland, Racing Queensland and the Australian Federation for Livestock Working Dogs.

RSPCA Qld is generally very supportive of the proposed registration scheme including the requirement for pounds and animal shelters to be registered.

Concerns raised by some stakeholder groups such as Dogs Queensland about the potential for duplicated registration requirements have largely been addressed through provision in the Bill for approved entities to be prescribed by regulation. Under the proposed scheme, breeders accredited by an approved entity would be exempt from the breeder registration requirements. However, they would still need to advise their entity's breeder accreditation

number in advertisements, have it recorded against the microchip and provide it to the receiver when supplying a puppy.

While AgForce Queensland and the Australian Federation for Livestock Working Dogs acknowledged the need for a state wide breeder registration scheme, they did not support requiring owners of working dogs to be registered as breeders. This concern has been addressed, as genuine breeders/suppliers of working dogs would be excluded from the scheme. Furthermore, under the proposed scheme working dog owners would still be exempt from microchipping requirements unless they supply dogs to others for non-working purposes (as currently required under the AMCD Act).

Consultation with the LGAQ about compliance activities and the initiation of a strategic multi-agency approach is continuing. DAF is seeking to collaboratively develop an approach which is consistent with existing activities to minimise local government costs.

The Office of Best Practice Regulation (OBPR) in the Queensland Productivity Commission was consulted in regard to the proposed legislation to protect breeding dogs and puppies. The OBPR advised that the proposal, while not excluded from the Regulatory Impact Statement (RIS) system, does not require a RIS as it is unlikely to result in significant adverse impacts.

Amendment of ACP Act

RSPCA Qld (given its compliance role for the ACP Act) was consulted about amending the ACP Act to clarify the offence related to blooding and coursing dogs. They supported the proposed amendment.

The OBPR advised that the amendment does not require a RIS as it is machinery in nature.

Amendment of Biosecurity Act

Consultation occurred with a range of relevant stakeholders in relation to the miscellaneous amendments to the Biosecurity Act.

The Aviary Bird Biosecurity Reference Group (including representatives from aviarist societies and veterinarians) were supportive of reducing the regulatory impost on keepers of 100 or more aviary birds. These changes were also discussed at the Poultry Health Liaison Group meeting in late 2015 and subsequently some members of that group expressed concern about potential risks from reducing the scope of the registration requirement.

The LGAQ and the Darling Downs Moreton Rabbit Board were consulted about and were supportive of the amendment of section 73 of the Biosecurity Act.

The Australian Banana Growers' Council, Nursery and Garden Industry Queensland, and representatives of the sugar industry were consulted on amendments to prohibited matter and restricted matter listings relevant to their areas of interest, and all were supportive of the proposed amendments. The Queensland Bee Association did not oppose the deregulation of the small hive beetle as this hive beetle is widespread and does not have substantial impacts on production.

The OBPR advised that the amendments do not require a RIS as they are either machinery in nature or are unlikely to have significant adverse impacts.

## Consistency with legislation of other jurisdictions

The proposed amendments concerning dog breeders are broadly similar to the requirements of other jurisdictions that have implemented dog breeder registration schemes, or have developed proposals to do so.

Both Victoria and the Australian Capital Territory (ACT) already require dog breeders to be registered, where the animals are to be sold or are produced for commercial gain, and similar registration requirements are proposed in a Bill Dog and Cat Management (Miscellaneous) Amendment Bill 2015 in South Australia. New South Wales (NSW) is also considering introducing a dog breeder registration scheme. The schemes in place or proposed in the ACT and South Australia, respectively, apply to breeders with one or more entire dogs. The breeder registration requirements in Victoria are more complex, apply only where the owner has three or more fertile females, and vary according to whether the owner is a member of an applicable organisation. Tasmania, Western Australia and the Northern Territory do not currently have dog breeder registration requirements.

In Victoria, certain exemptions apply for breeders who are members of an applicable organisation, while in South Australia it is proposed that if a breeders' association meets criteria established by the Dog and Cat Management Board, breeders could simultaneously register with both the breeder organisation and the government in one process. For working dogs, Victoria provides exemptions for certain guide dog organisations (Guide Dogs Victoria and Vision Australia Seeing Eye Dogs) from the requirements, including breeder registration, of a domestic animal business. The ACT Government does not provide any exemptions for working dogs. In South Australia, it is proposed there would be exemptions for working livestock dogs and racing greyhounds.

All Australian jurisdictions apart from the Northern Territory require puppies to be microchipped, generally by 12 weeks of age. However, the age at which this is required does vary and in Victoria microchipping prior to sale/transfer under Section 12A of the *Domestic Animals Act 1994* (Vic) applies only to domestic animal businesses. Inclusion of breeder identification in the information recorded against the microchip, as proposed in this Bill, is not currently a requirement in any other jurisdiction. However, the NSW Government has indicated it intends to redesign the Companion Animal Register in 2016 so as to capture breeder details.

The proposed amendments to the Biosecurity Act related to the definitions for restricted animal material and prohibited feed for pigs and poultry are to make it more consistent with the legislation of other jurisdictions. Agricultural Ministers agreed to introduce nationally consistent feed ban legislation for ruminants and pigs in 2001 and 2014 respectively. The feed bans were developed by Animal Health Committee and Animal Health Australia in consultation with the commonwealth, all states and territories and peak industry bodies. Queensland extends prohibited feed restrictions to poultry.

The proposed amendments to the Biosecurity Act related to weeds of national significance will also make that Act more consistent with legislation in other jurisdictions. There are 32

weeds of national significance that are subject to some degree of national coordination such as national working groups and management plans. Each jurisdiction has agreed to ban these plants from sale. Seven of the nine weeds have been regulated in NSW and Western Australia, five in Victoria and Tasmania, nine in South Australia and the ACT. The Northern Territory has not yet regulated these weeds.

# Notes on provisions

## Part 1 Preliminary

*Clause 1* provides that, when enacted, the Bill will be cited as the *Animal Management (Protecting Puppies) and Other Legislation Amendment Act 2016*.

*Clause 2* provides that parts 3 and 5 (and hence schedule 1) of the Bill will commence on a day fixed by proclamation. It does not mention parts 1, 2 or 4 so they commence on assent of the Bill.

## Part 2 Amendment of Animal Care and Protection Act 2001

*Clause 3* states that this part amends the ACP Act.

*Clause 4* amends section 32 to clarify that it is an offence to keep or use an animal as a kill or lure to give a dog a taste or sight of blood from the animal, either on the first or subsequent occasion. As there is no current definition of *blood* (in the context of blooding an animal) in the Act, the clause expands the provision to describe what is meant. This is considered prudent because the Macquarie Dictionary definition of *blood* means to give a hunting dog its first taste or sight of blood, but the clause amends the provision to make it an offence to keep or use an animal as a kill or lure for a dog, irrespective of whether the dog has tasted or sighted the blood of the animal or any other animal previously.

## Part 3 Amendment of Animal Management (Cats and Dogs) Act 2008

*Clause 5* states that Part 3 amends the AMCD Act. (It also includes a note to see the amendments in schedule 1 which relate to omission or amendment of existing notes and changing *minor* to *child* to accord with current drafting practices.)

*Clause 6* inserts an additional purpose for the AMCD Act in section 3. It is to promote the responsible breeding of dogs. This reflects that the AMCD Act will encompass a wider purpose with the additional obligations relating to breeder registration and the supply and advertisement of dogs.

*Clause 7* inserts additional ways that the purposes of the AMCD Act can be achieved in section 4. They are imposing registration obligations on dog breeders; the regulation of the supply of dogs and the advertising of dogs for supply; and providing for the sharing of information about dog breeders with particular agencies and entities that are responsible for animal welfare. Another new way that the purposes of the AMCD Act can be achieved is for the chief executive to establish a breeder register. The breeder register will contain details of persons who have been registered as breeder, or as accredited breeder, or exempted such as the person's name, breeder ID number, accreditation number or exemption number, contact details. Sections 4(ba)-(j) are renumbered as 4(c)-(m) as a result of the insertion of the additional ways that the purposes of the AMCD Act can be achieved.

*Clause 8* inserts a new section 12A which provides that a person breeds a dog if the dog is born to a female dog that is usually kept by the person including through an agent, employee or anyone else. If the person who usually keeps the female dog is a child then a parent or guardian of the child is taken to be the person who has bred the dog. Section 12A(3) clarifies that it is irrelevant whether the person who has bred the dog intends to keep the dog or supply it to other person.

*Clause 9* omits mention of suppliers from the heading of chapter 2, part 1, division 1 (Obligation on supplier or owner of cat or dog) because clause 10 omits section 13 which prohibits the supply of a cat or dog that is not implanted with a PPID. Instead equivalent provisions are inserted in new section 43Y by clause 11. Chapter 2, part 1, division 1 now only provides for obligations on the owner to ensure that their cat or dog is implanted and to give notice of any changed PPID information to a licence holders

*Clause 10* omits section 13. Instead equivalent provisions are inserted in new section 43Y (Requirement for cat or dog to be implanted) in chapter 2B, part 2 by clause 11.

*Clause 11* inserts a new chapter 2A (Registration of dog breeders and related matters) and 2B (Supply of cats and dogs) and creates new parts, divisions and sections.

New section 43A provides for the definitions of terms used for the purposes of chapter 2A.

New section 43B defines an *accredited breeder* as a person who is accredited by an approved entity to breed dogs in accordance with the accreditation scheme conducted by the approved entity.

Section 43B(2)-(3) clarifies that a person is taken to be an accredited breeder on the approved entity's approval day (the day that the entity is prescribed as an approved entity). This will ensure that all accredited breeders of an approved entity on the day it is prescribed will be taken to be accredited breeders and not only the breeders accredited after the entity has been prescribed. However, they only become accredited breeders for the purposes of the Act on the approved entity's approval day.

A new section 43C defines an *accreditation number* as the unique identifying number an approved entity gives a person who is an accredited breeder of the approved entity. Section 43C(2)-(3) provides that it does not matter that person has been given the unique identifying number before the approved entity's approval day but for the purposes of the Act it only becomes the accreditation number of the accredited breeder on the approved entity's approval day.

New section 43D provides a definition of an *ineligible person*. An ineligible person, such as a child, will not eligible to register as a registered breeder under section 43G.

New section 43E provides that a person who breeds a dog must, if they were not a registered breeder on the day that the dog was born, apply to be registered as a breeder within 28 days after the dog is born unless certain circumstances apply. The circumstances in which they would not be required to be registered are that they are: an accredited breeder of an approved entity; a primary producer who has bred the dog from a working dog to use as a working dog or supplying the dog to another primary producer to use a working dog; or a member of a class of persons prescribed by regulation. They would also not be required to register if they

have a reasonable excuse or if the dog that was bred dies within 28 days after it is born. A maximum penalty unit of 50 penalty units is provided.

New section 43F provides that a person, other than an ineligible person, may apply to the chief executive to be registered to breed dogs. The application is to be made either electronically using the online breeder registration system or in the approved form. It must include the person's *designated details* and the application must be accompanied by the prescribed fee. (Designated details is defined in section 43A to mean the person's name; either their residential address and local government area or, if they are a body corporate, the address and local government area of their place of business, head office or registered office; contact telephone number; and the person's email address.)

New section 43G provides that the chief executive, must, as soon as practicable after receiving an application under new section 43F, record the person as a registered breeder in the breeder register and give the person written notice of the person's registration as a registered breeder. The notice must state the designated details of the person recorded in the breeder register, the breeder ID number given to the person and the registration date.

New section 43H provides that a person's registration as a registered breeder ends one year after the registration date stated in the notice of the person's registration unless the registration is sooner cancelled.

New section 43I provides that a person's registration may not be transferred.

New section 43J provides that the chief executive must give a registered breeder a renewal notice at least 14 days before their registration as a registered breeder expires. The notice must state the designated details for the registered breeder as recorded in the breeder register that the registered breeder may renew their registration by paying the prescribed fee and state the period of renewal of registration.

New section 43K provides that a registered breeder who intends to renew their registration must, before their registration expires, pay the prescribed fee regardless of whether they have been given a renewal notice under new section 43J.

New section 43L provides that the chief executive must give the registered breeder notice of the renewal of registration within 14 days of receiving the renewal fee. The notice must state the designated details of the registered breeder as recorded in the breeder register; their breeder ID number; and the date the registration was renewed.

New section 43M provides that a person's registration ends one year after the renewal date stated in the notice of renewal of registration unless it is sooner cancelled.

New section 43N provides that a registered breeder must give notice to the chief executive of any changes to the designated details within seven days after the information has changed, unless the breeder has a reasonable excuse. A maximum penalty of 50 penalty units is provided. The notice must be given either electronically using the online breeder registration system on the department's website or in writing.

New section 43O provides that the chief executive must update the breeder register to include the changed designated details as soon as practicable. The chief executive must give the

registered breeder a written notice that includes the changed designated within 14 days after receiving the notice.

New section 43P provides the grounds for suspension or cancellation of a person's registration as a registered breeder. These are that the person becomes an ineligible person under new section 43D(b); the person was registered because of materially false or misleading representation or declaration; the person was charged with an animal welfare offence; or the person was charged with a Commonwealth or interstate offence that would be an animal welfare offence in Queensland.

New section 43Q provides that where the chief executive reasonably believes a ground exists to suspend or cancel a person's registration as a registered breeder the chief executive must give the person a show cause notice. The notice must state the matters listed in section 43Q(2), including that the chief executive is proposing suspension or cancellation and the grounds for the suspension or cancellation. The notice must give the person a period of at least 21 days to show cause as to why the proposed action should not be taken.

New section 43R provides that a person may make written representations to the chief executive within the show cause period about why the proposed suspension or cancellation action should not be taken. The chief executive must consider all representations.

New section 43S provides that if, after considering the accepted representations, the chief executive no longer believes a ground exists for the proposed suspension or cancellation, then they must not take any further action in relation to the show cause notice and give the person as soon as practicable, a notice stating that the proposed action will not be taken.

New section 43T provides if, after considering the accepted representations in response to a notice proposing suspension or if there have not been any representations, the chief executive still believes that a ground exists and the proposed suspension is warranted, then the chief executive may suspend the registration for a stated period (but no longer than the stated period proposed in the notice). If the notice proposed cancellation, and the chief executive still believes that a ground exists and the action is warranted, then the chief executive may cancel the registration or suspend it for a stated period. The chief executive must, as soon as practicable, give the person an information notice for the decision. The decision takes effect the day the person has been given the information notice or the day stated in the information notice for the purpose, whichever is later.

New section 43U provides for immediate suspension of a person's registration as a registered breeder, if the chief executive believes that a ground exists to suspend the registration and it is necessary to suspend the registration immediately because there is an immediate and serious risk to the welfare of dogs or of harm to the effectiveness of the registration scheme. The chief executive must give the person an information notice to suspend the registration as well as a show cause notice. The suspension operates immediately the notices are given and (subject to a stay granted by QCAT) continues to operate until the chief executive cancels the remaining period of suspension or the show cause notice is finally dealt with or 28 days have passed since the notices were given to the person (whichever is the earliest).

New section 43V provides for the meaning of the term *relevant information* used in chapter 2A, part 3. (This is the information an approved entity will provide about persons who are or were accredited under its accreditation scheme for dog breeders.)

New section 43W provides that a regulation may prescribe an entity as an approved entity. The Minister may recommend the making of a regulation to prescribe an entity as an approved entity only if the Minister is satisfied the entity conducts an accreditation scheme for dog breeders; the entity gives a unique identifying number to each person it accredits under the scheme; and the entity's accreditation scheme requires each accredited breeder to give them notice within 7 days of any changes to their designated details.

Section 43W also requires the Minister to be satisfied that the entity would be able and willing to give the chief executive, within seven days after a person becomes an accredited breeder of the approved entity, or seven days after the day a person stops being an accredited breeder of the approved entity, the *relevant information* for each person. The Minister must also be satisfied that the entity would be able and willing to give notice of a change in designated details within 7 days after the breeder gives the entity notice of the change. In other words, the approved entity must give information about breeders currently accredited under the entity's scheme within seven days after the entity becomes an approved entity and from there on give information about any changes to their accredited breeders or changes in designated details of their accredited breeders within seven days of the changes. Relevant information is defined in section 43V in relation to an accredited breeder of an approved entity and for a person who has stopped being an accredited breeder of an approved entity.

Section 43W also requires the Minister to be satisfied that the approved entity would be able and willing to give any other information requested by the chief executive about an accredited breeder or a person who stops being an accredited breeder for the purposes of helping the chief executive monitor or enforce compliance with the Act.

New section 43X provides a definition for a dog's *relevant supply number*. (A relevant supply number is required when supplying or advertising for the supply of a dog.) A relevant supply number for a dog bred by a registered breeder is their breeder ID number. However, if a dog is bred while a registered breeder's registration is suspended, then the dog is taken not to have relevant supply number.

New section 43Y(1) provides that a person must not, without a reasonable excuse, supply a cat or dog to anyone else if it is not implanted with a PPID. This replicates the current section 13(1) of the AMCD Act which is being omitted by clause 10.

New section 43Y(2) clarifies that it is not a reasonable excuse for a person to supply a cat or dog to another person that is not implanted with a PPID because it is less than eight weeks old. This is to clarify that a person cannot supply a cat or dog in these circumstances despite section 24 which imposes restrictions on implanting a PPID in a cat or dog that is less than eight weeks old.

New section 43Y(3) reflect the existing (relocated from section 13(2)) defence provisions for the offence relating to the supply of a cat without being implanted. A defence is available if the cat is at least eight weeks of age and is not implanted with a PPID if there is a veterinary surgeon's certificate for the cat.

New section 43Y(4)(a) reflects the existing (relocated from section 13(2)) defence provisions for the offence relating to the supply of a dog without being implanted. A defence is available if the dog is at least eight weeks of age and is not implanted with a PPID if there is a

veterinary surgeon's certificate for the dog. However, it also provides that an additional new requirement to the defence that the defendant when supplying the dog, gave the person to whom the dog was supplied, a copy of the *veterinary surgeon's certificate* for the dog. Veterinary surgeon's certificate is defined in new section 43Y(5) to mean a certificate signed by a veterinary surgeon stating that implanting the cat or dog with a PPID is likely to be a serious risk to its health.

New section 43Y(4)(b) is an equivalent provision to the existing section 13(2)(b). It provides that section 43Y does not apply to the supply of a dog without a PPID if the use of the dog is as a government entity dog, a working dog or another class of dog prescribed by regulation.

New section 43Z provides that a person must not, without reasonable excuse, supply a dog to another person unless the person knows there is a *relevant supply number* for the dog. (The relevant supply number is either the breeder ID number, accreditation number, unique number that identifies the breeder as a recognised interstate breeder or an exemption number for the dog.) If the dog is required to be implanted with a PPID, the supplier must also know the information kept for the dog under section 36 includes the relevant supply number. (Under existing section 38 of the AMCD Act, the PPID information for a dog can be disclosed to the owner of the dog by a licence holder providing a PPID registry service for the dog.) The requirement for the supplier to know that there is a relevant supply number for the dog and the inclusion of it in the PPID information is to enable the breeder of the supplied dog to be identified. A maximum penalty of 50 penalty units is provided for noncompliance.

New section 43ZA prescribes the circumstances in which a person does commit an offence against section 43Z (Supplier must know dog has relevant supply number). They are: if the dog is bred by a primary producer from a working dog and supplied to another primary producer to use as a working dog; the dog is supplied by a member of a prescribed class of persons; or the dog is supplied to a *shelter* or pound; Shelter is defined to include a veterinary surgery to the extent it provides shelter for a cat or dog that is homeless, lost or stray. The reason for the first two exclusions is that a breeder is not required to be registered in these circumstances. The reason for the third exclusion is to ensure dogs can be lawfully taken to a shelter or pound without a registration requirement.

Section 43AZ(2) provides that an additional exclusion in relation to knowing the PPID information kept for the dog under existing section 36 is where the dog is not required, under section 43Y, to be implanted with a PPID. In this circumstance, the supplier would only be required to know the relevant supply number.

New section 43ZB provides that a person must not, without a reasonable excuse, advertise the supply of a dog unless the person knows there is a relevant supply number for the dog. If the dog is required to be implanted with a PPID for supply under section 43Y(1), the person must also know that the PPID information kept for the dog under current section 36 includes the relevant supply number. A maximum penalty of 50 penalty units is provided. (Under existing section 38 of the AMCD Act, the PPID information for a dog can be disclosed to the owner of the dog by a licence holder providing a PPID registry service for the dog.)

New section 43ZC provides that an advertisement for the supply of a dog must include the relevant supply number for the dog unless the person has a reasonable excuse. A maximum penalty of 50 penalty units is provided.

New section 43ZD prescribes the circumstances in which a person does commit an offence against section 43ZB (Advertiser must know dog has relevant supply number) or 43ZC (Advertisement must include relevant supply number). They are: if the dog is bred by a primary producer from a working dog and supplied to another primary producer to use as a working dog; or the dog is supplied by a member of a prescribed class of persons. The reason for these two exclusions is that a breeder is not required to be registered in these circumstances.

Section 43ZD provides that an additional exclusions in relation to the requirement in section 43ZB(b) for the advertiser to know the PPID information kept for the dog under existing section 36. They are where the dog is at least 8 weeks old and there is a veterinary surgeon's certificate for the dog or where the advertisement is for supply of another dog that is not required to be implanted with a PPID under new section 43Y (a government entity dog, working dog, or for a purpose prescribed by regulation).

New section 43ZE provides that a person who merely prints or publishes an advertisement for another person as part of their printing or publishing business does not commit an offence against new sections 43ZB or 43ZC.

New section 43ZF provides that a person who supplies a dog to another person must also by notice give the other person the name of the *supplier* of the dog and the relevant supply number for the dog.

Section 43ZF(2) prescribes the circumstances in which a person does not commit an offence against section 43ZF. They are: if the dog is bred by a primary producer from a working dog and is supplied to another primary producer to use as a working dog; or the dog is supplied by a member of a prescribed class of persons; or the dog is supplied to a shelter or a pound. The supplier of a dog means either the supplier or the person who conducts the business activity if the dog is supplied as part of a business activity that includes the supply of dogs. A maximum penalty of 50 penalty units is provided.

New section 43ZG provides that a person is an eligible person to apply for an exemption number for a dog if the dog was bred by a primary producer from a working dog and was supplied to the person when the person was a primary producer to use as a working dog and the person proposes to supply the dog to another person who is not a primary producer or other than to use as a working dog. It is irrelevant whether the person who supplied the dog bred the dog or another person, or that the person proposing to supply the dog is still a primary producer. The reason such a person is an eligible person is that without an exemption number they may be in breach of offence provisions in new sections 43Z–43ZF if they attempt to supply the dog or advertise the dog for sale.

New section 43ZH provides that a person is also an eligible person for a dog if the dog was bred and supplied to the person by a member of a prescribed class of persons and the person proposes to supply the dog to another person. The reason such a person is an eligible person is that without an exemption number they may be in breach of offence provisions in new sections 43Z–43ZF if they attempt to supply a dog or advertise a dog for sale.

New section 43ZI provides that a person is also an eligible person to apply for an exemption number for a dog if the person is the owner of, or the responsible person for, the dog; did not breed the dog and does not conduct a business activity that includes the supply of dogs. The

reason such a person is an eligible person is that without an exemption number they may be in breach of offence provisions in new sections 43Z–43ZF if they attempt to supply a dog or advertise a dog for sale.

New section 43ZJ provides that a person who is an eligible person in relation to a dog, (under sections 43ZG, 43ZH, or 43ZI) may apply to the chief executive for an exemption number for the dog either electronically using the online breeder registration system or in the approved form. The application must include enough information to enable the chief executive to decide the application and must be accompanied by the prescribed fee.

New section 43ZK provides that the chief executive must either approve or refuse the application for exemption. The chief executive must refuse to approve the application if satisfied that the applicant is not an eligible person in relation to the dog. The chief executive must give the applicant an information notice if the chief executive refuses to approve the application.

New section 43ZL provides that the chief executive is taken to have refused to grant the application and the applicant is entitled to an information notice if the chief executive has not decided an application for an exemption with 28 days after receiving it. This is to enable the applicant to apply for an internal review of the decision and have the matter resolved.

New section 43ZM provides that if the chief executive approves an application for exemption the chief executive must give the applicant as soon as practicable a written notice stating the exemption number issued for the dog.

*Clause 12* inserts a note to section 44(1)(a) to indicate that even though the operator of a pound or shelter is not required to register the dog under section 44 they may need to apply to be registered as a registered breeder under section 43E.

*Clause 13* inserts new sections 140A and 140B to provide that an authorised officer may give a person an information requirement and that it is an offence not to comply with the requirement without a reasonable excuse.

Section 140A provides that if an authorised officer reasonably believes that an offence under the Act has been committed and a person may be able to give information about the offence the authorised officer may give the person a notice requiring the person to give the authorised officer information about the offence by a stated reasonable time. If the information required is an electronic document, the person must give a clear image or written version of the electronic document.

Section 140B provides that a person must comply with a requirement made under new section 140A unless the person has a reasonable excuse. A maximum penalty of 50 penalty units is provided. It is a reasonable excuse not to give information if giving the information might tend to incriminate the person or expose the person to a penalty.

*Clause 14* inserts a new heading (Division 1 (Registers to be kept)) before section 172 in chapter 7, part 1. This is to assist a reader to quickly identify the correct provisions.

*Clause 15* amends the heading of section 172 from *Chief executive must keep registers* to *Chief executive must keep regulated dog register*. This is because the provisions relating to

different registers (regulated dog register, licence holder register and breeder register) will be separated to assist a reader to quickly identify the correct provisions.

Clause 15 also omits section 172(3)-(5) because it will be relocated by clause 18.

*Clause 16* inserts new sections 172A-172E after section 172. These sections provide for the chief executive's obligations to keep the different registers. Sections 172A-172C join section 172 in Division 1 (Registers to be kept). Sections 172D-172E will form Division 2 (Publication of particular information contained in registers). The clause also inserts a heading for new Division 3 (Inspection of registers) which comprises existing section 173 and sections inserted by clause 18.

New section 172A provides that the chief executive must keep a register of licence holders which contains the information required to be stated on the licence holder's licence under current section 154.

New section 172B provides that the chief executive must keep a register of persons who breed dogs and for the details required to be kept in the breeder register. The information is to be kept in the breeder register for at least five years after a person is no longer a registered breeder or an accredited breeder of an approved entity or after an eligible person has been issued an exemption number.

New section 172C provides that the chief executive may keep a register mentioned in sections 172, 172A, or 172B in a way the chief executive considers appropriate including in electronic form.

New section 172D provides that the chief executive may publish details contained in the publically available part of the licence holder register (the register of PPID registry licence holders) at the times and in the way the chief executive decides. This is an equivalent section to the current section 173(8) of the AMCD Act which is omitted by clause 17.

Clause 16 also inserts new section 172E to provide that the chief executive must publish the *publically available part* of the breeder register on the department's website. The section provides a definition of publicly available part for a person who is a registered breeder or an accredited breeder of an approved entity. It includes the person's name, breeder ID number, local government area, and the period of registration or accreditation.

*Clause 17* amends the heading of section 173 from *Who may inspect registers* to *Who may inspect regulated dog register*. This is to reflect that the provisions in that section, as amended, will only apply to the regulated dog register and not the licence holder or breeder register. This will assist a reader to clearly identify the relevant provisions for each register.

Clause 17 also omits sections 173(4)-(8). Instead, section 173(4) is reflected in new section 173A inserted by clause 18, section 173(5)-(7) is reflected in new section 173D inserted by clause 18, while 173(8) is reflected in new section 172A inserted by clause 16.

*Clause 18* inserts new sections 173A–173D, after section 173. The inserted sections prescribe the persons who may inspect the information in registers kept by the chief executive under the amended AMCD Act.

New section 173A replicates current section 173(4). It provides that a person may, free of charge, inspect the publically available part of the licence holder register at the department's head office during normal business hours.

New section 173B authorises persons to inspect the information kept in the breeder register including persons appointed to perform functions under ACP Act; persons appointed by the local government to perform functions under the AMCD Act or the ACP Act; a police officer who is monitoring or enforcing compliance under the AMCD Act or the ACP Act or performing functions in relation an animal or an animal welfare offence; or authorised officers under the *Racing Integrity Act 2016* performing functions in relation to an animal or animal welfare offence. Section 173B also provides that the publically available part of the breeder register may be inspected, free of charge, by a person at the department's head office during normal business hours.

New section 173C provides that if the chief executive is satisfied that someone's personal safety could be at risk if particular information was included on the breeder register, then the information must not be set out in the publically available part of the register or a copy of information from the register.

New section 173D provides that a person who inspects the regulated dog register under section 173(2), or a licence holder register under the new section 173A, or the breeder register under section 173B(2) may ask for a copy of the information. The person must pay a fee decided by the chief executive for the copy. The fee decided by the chief executive must not be more that the reasonable cost of producing the copy. These provisions are equivalent to current section 173(5)-(7) of the AMCD Act.

*Clause 19* replaces section 181(1). The omitted section 181(1) provides that an interested person for an original decision made by the chief executive under chapter 2, part 1, division 3, subdivision 3; chapter 2A, part 2; chapter 2B, part 5; or chapter 6, may apply to the chief executive for an internal review of the decision. The replacement section 181(1) is equivalent to the omitted section 181(1) but extends the right to apply for a review to an interested person in a decision made under chapter 2A, part 2 division 4 and chapter 2B, part 5. The PPID review application is renamed a 'designated review application' because it is not restricted to reviews relating to PPIDs.

*Clause 20* replaces the reference to *PPID* in section 182 with *designated*. This reflects that the replacement section 181(1) uses the term *designated review application*.

*Clause 21* replaces the reference to *PPID* in section 184 with *designated*. This reflects that the replacement section 181(1) uses the term *designated review application*.

*Clause 22* replaces the reference to *PPID* with *designated* in the heading of section 185 and in sections 185(1), (4) and (5). This reflects that the replacement section 181(1) uses the term *designated review application*.

*Clause 23* replaces the reference to *PPID* in section 187 with *designated*. This reflects that the replacement section 181(1) uses the term *designated review application*.

*Clause 24* replaces the reference to *captive bird* in section 197A with *designated bird* to align with the terminology used in provisions of the Biosecurity Act as amended by clause 36.

*Clause 25* inserts new section 199A after section 199. New section 199A provides that a certificate purporting to be signed by the chief executive stating certain matters is evidence of the matters. These include that on a stated day, or during a stated period a person as not a registered breeder, or their registration was suspended for a stated period or cancelled.

*Clause 26* inserts new sections 207B and 207C after section 207A

New section 207B states the circumstances in which the chief executive may share information obtained under chapter 2A or 2B with inspectors and authorised officers appointed under the ACP Act, police officers, authorised officers under the *Racing Integrity Act 2015* and the chief executive officer of a local government.

New section 207C allows the information obtained by persons under sections 173B(1) or 207B to be used when performing any function under the AMCD Act, the ACP Act or the *Racing Integrity Act 2015* or by a police officer in relation to an animal or an animal welfare offence.

*Clause 27* provides that the chief executive may approve additional forms under chapters 2A (Registration of dog breeders and related matters) and 2B (Supply of cats and dogs)

Clause 27 also omits reference to chapter 2, part 1, division 3, subdivision 3 because it does not include a reference to an approved form.

*Clause 28* inserts a new chapter 10, part 5 that provides a transitional provision, new section 229, for the amendments to the AMCD Act contained in this Bill. New section 229 provides that the new chapter 2A, part 2 and chapter 2B, part 3 apply only in relation to a dog born on or after the commencement.

*Clause 29* amends schedule 2 (Dictionary) to omit definitions no longer required as a result of the amendments in this Bill and inserts new definitions to support the new provisions.

## Part 4 Amendment of *Biosecurity Act 2014*

*Clause 30* states that this part amends the Biosecurity Act.

*Clause 31* inserts new sections 45A and 45B which essentially define terms that correspond to animal feed that poses disease transmission risks when fed to pigs and poultry and ruminants respectively. These terms are critical to implementation of nationally agreed feed bans.

New section 45A defines what is *prohibited feed for pigs and poultry*. This term replaces *restricted animal material for pigs and poultry* (a definition proposed to be omitted from the dictionary in Schedule 5) which could cause confusion with ‘restricted animal material’ labelling requirements agreed nationally for animal feed. New subsection 45A(2) provides a list of exceptions to prohibited feed for pigs and poultry, the majority of which will be prescribed by regulation.

New section 45B defines what is *restricted animal material*. This term replaces *restricted animal material for ruminants* (a definition proposed to be omitted from the dictionary in

Schedule 5) for consistency with the nationally agreed term used in labelling for animal feed. New subsection 45B(2) provides exceptions to restricted animal material which will be prescribed by regulation.

*Clause 32* amends section 46 (as amended by provisions of the *Agriculture and Other Legislation Amendment Act 2015* (AOLA Act) which are not reflected in the current reprint of the Biosecurity Act) to reflect changed terminology whereby *restricted animal material for ruminants* is referred to as simply *restricted animal material* for consistency with the nationally agreed labelling requirements for animal feed which are proposed to be imposed by regulation. The clause also omits subsection 46(5)(a) which is redundant due to the broader provision in new section 45B to exclude materials from the definition of restricted animal material by prescription in regulation.

*Clause 33* amends section 46A (as inserted by provisions of the AOLA Act which are not reflected in the current reprint of the Biosecurity Act) to reflect changed terminology whereby *restricted animal material for pigs and poultry* is referred to as *prohibited feed for pigs and poultry* for consistency with the nationally agreed definition. The clause also omits subsection 46A(5)(a) which is redundant due to the broader provision in new section 45A to exclude materials from the definition of restricted animal material by prescription in regulation.

*Clause 34* omits section 46B (as inserted by provisions of the AOLA Act which are not reflected in the current reprint of the Biosecurity Act) as exceptions to what is prohibited feed for pigs and poultry or restricted animal material will be made by prescribing exceptions to the definitions to these terms in regulation under new sections 45A and 45B respectively.

*Clause 35* amends section 46C (as inserted by provisions of the AOLA Act which are not reflected in the current reprint of the Biosecurity Act) to reflect the changed terminology (from *restricted animal material for ruminants* to *restricted animal material* and from *restricted animal material for pigs and poultry* to *prohibited feed for pigs and poultry*) and renumbers section references throughout.

*Clause 36* amends section 73 to provide that the term of appointment to an invasive animal board is four years. This is for consistency with the cycle for local government elections given members of an invasive animal board are often drawn from local government.

*Clause 37* amends section 115 to reflect the changed terminology (from *restricted animal material for ruminants* to *restricted animal material*).

*Clause 38* amends section 132 to clarify a circumstance when an inspector may refuse an application for the issue of a biosecurity instrument permit. The clause provides that when biosecurity zone regulatory provisions provide for the movement of biosecurity matter or a carrier with an acceptable biosecurity certificate, an inspector may refuse an application for a biosecurity instrument permit if the inspector is satisfied the person can reasonably obtain an acceptable biosecurity certificate for the movement. The clause ensures that an inspector is not obliged to give a biosecurity instrument permit (at no cost) where there is a more appropriate mechanism available (at their cost) to facilitate the movement.

*Clause 39* amends section 134 to substitute the term *designated bird* for *captive bird* in the definition of what is a *designated animal*. This reflects that clause 36 changes the terminology and limits the scope of birds that trigger a registration requirement.

*Clause 40* inserts a new section 135A which defines *designated bird* as a subset of *captive birds*. Designated birds are defined as designated animals under section 134 of the Biosecurity Act. Persons who keep more than the threshold number of designated animals are registrable biosecurity entities. By virtue of the new definition new section 135A, captive birds which are neither kept for human consumption nor to produce eggs for human consumption nor have been released for free flight do not come within the definition of designated birds and thus persons who keep more than the threshold number of them are not subject to those registration provisions. These birds pose a comparatively lower risk of avian disease transmission hence their exclusion from the definition and hence scope of the registration trigger.

*Clause 41* amends section 137 to substitute the term *designated birds* for *captive birds* in relation to the threshold number that, if kept, will trigger a requirement for a person to be registered as a biosecurity entity.

*Clause 42* amends section 148 to omit reference to biosecurity risk status details as this term can be confused with terminology used in connection with the National Livestock Identification System (NLIS). Also the majority of biosecurity entities will not have a biosecurity risk status. Information on the risk posed by a registered biosecurity entity can be maintained administratively if appropriate so it is unnecessary to record such details on the biosecurity register.

*Clause 43* amends section 149 to omit the requirement for the chief executive to decide the biosecurity risk status details for the entity and to provide an information notice for that decision.

*Clause 44* amends section 150 to omit the requirement of the chief executive to decide the biosecurity risk status details for an entity being registered without having applied to register and renumbers the remaining provisions in the section. The amended section continues to provide that the chief executive must give the person a notice that the chief executive proposes to register them before taking the action. Additionally, it provides that the notice must include the proposed registration details so that the person has an opportunity to make written submissions about them. The amended section continues to provide that the chief executive must give an information notice for the decision to register the person and the registration details recorded.

*Clause 45* replaces the heading of chapter 7, part 2, division 3 to reflect the division will encompass restricted animals and restricted biosecurity matter as well as restricted places.

*Clause 46* replaces sections 160 and 161 with new provisions.

Section 160 currently requires a biosecurity risk notice to be given that may cause the place to pose a risk. The replacement section 160 requires a notice to be given if the place or a designated animal at the place or designated biosecurity matter at the place poses or may pose a risk. The provision imposes an obligation upon the relevant person to give the biosecurity risk notice to the chief executive as soon as practicable unless the relevant person is aware the

chief executive has been advised or become aware of the biosecurity risk. The new section also provides who a relevant person is for a designated place.

Section 161 currently concerns the chief executive's power to declare a restricted place and how it is restricted and restrictions on the use or future use of designated animals at the place. It does not adequately address the risk that animals may pose after restrictions on the use of the place can be lifted (because, for example, the contamination has been cleaned up). Further, it does not allow restrictions to be placed on designated biosecurity matter or on carriers that may spread the risk.

The replacement section 161, in addition to providing the chief executive with the power to declare a restricted place and how it is restricted, enables the chief executive to declare restrictions on dealings with designated animals or designated biosecurity matter at the place, either whilst the place is restricted or after the declaration of the place has ended. For example, cattle that ingested a contaminant at a place may continue to be unfit for human consumption after the contamination at the place has been addressed and thus restrictions on dealings with the cattle may need to continue after the declaration of the restricted place has ended. New section 161 also provides the chief executive with the power to declare restrictions applying to dealings with carriers of biosecurity matter at the restricted place while the declaration is in force or after the declaration of the place has ended. New section 161 also states the persons to whom the chief executive must give an information notice if declarations are made about restricted places, designated animals, designated biosecurity matter or carriers of biosecurity matter under this section.

*Clause 47* amends section 162 (Compliance with restricted place restrictions). The amendment to subsection 162(1) makes clear the section to which the offence for contravention of a restricted place restriction relates. The amendment to subsection 162(3) provides an offence for dealing with a designated animal in a way which contravenes a restriction under a restricted place declaration that is recorded on the biosecurity register. This reflects that new section 161 allows restrictions to be placed on dealings with a designated animal at a restricted place rather than the use or future use of the designated animals at the place as under the current 161.

Clause 47 also introduces new offence provisions for dealing with designated biosecurity matter (new section 162(5)) and a carrier of biosecurity matter (new section 162(7)) in a way that contravenes a restriction under a restricted place declaration that is recorded on the biosecurity register. A maximum penalty of 800 penalty units is provided in each case.

For each offence under the new section 162, it will be a defence for the person to establish that they did not know and ought not reasonably to have known of the existence of the restriction or had a reasonable excuse for performing the activity that contravened the restriction.

*Clause 48* inserts new subdivisions 3 and 4 under chapter 7, part 2, division 3 which provide for the declaration of restricted animals and restricted biosecurity matter respectively. Chapter 7, part 2, division 3 currently provides only for the declaration of restrictions in relation to a place. It does not allow restrictions to be placed on animals that pose a risk if there is no risk associated with a place. Similarly, it does not allow restrictions to be placed on designated biosecurity matter if there is no risk associated with a place. Clause 48 broadens the scope of the division to ensure that restrictions can apply to designated animals

and designated biosecurity matter independent of restrictions on a place. For example, restrictions may need to be placed on cattle that had left a property that was contaminated before it was declared. Restrictions may also need to be imposed where cattle poses a risk that is not associated with any place, such as where cattle has been fed restricted animal material and may be unfit for human consumption.

New subdivision 3 comprises new sections 162A and 162B.

New section 162A empowers the chief executive, once satisfied a designated animal could pose a biosecurity risk, to make an entry in the biosecurity register and declare the animal to be restricted and the restrictions on dealing with the animal. Subsection 162A(4) requires the chief executive to give an information notice for the declaration to stated persons with an interest in the animal.

New section 162B makes it an offence, without reasonable excuse, for a person to deal with an animal in a way that contravenes a restriction recorded in the biosecurity register for the restricted animal. It will be a defence for the person to establish that they did not know and ought not reasonably to have known of the existence of the restriction or had a reasonable excuse for performing the activity that contravened the restriction.

New subdivision 4 comprises new sections 162C and 162D.

New section 162C empowers the chief executive, once satisfied designated biosecurity matter could pose a biosecurity risk, to make an entry in the biosecurity register and declare the biosecurity matter to be restricted biosecurity matter and the restrictions on dealing with the biosecurity matter. Subsection 162C(4) requires the chief executive to give an information notice for the declaration to stated persons with an interest in the designated biosecurity matter.

New section 162D makes it an offence, without reasonable excuse, for a person to deal with restricted biosecurity matter in a way that contravenes a restriction recorded in the biosecurity register for the restricted biosecurity matter. It will be a defence for the person to establish that they did not know and ought not reasonably to have known of the existence of the restriction or had a reasonable excuse for performing the activity that contravened the restriction.

Finally, clause 48 inserts a new heading to separate the remaining sections of chapter 7, part 2, division 3 (that is sections 163 – 167) into a new subdivision 5.

*Clause 49* replaces the current section 163 which relates only to restricted places with a new provisions to reflect that the chief executive may end a declaration on a restricted place (new section 163), restricted animal or restricted biosecurity matter (new section 163A) if satisfied that they no longer pose a biosecurity risk, by removing entries for each from the biosecurity register. The removal can occur on the chief executive's own initiative or after consideration of an application for removal under this section.

*Clause 50* amends the heading of s164 to reflect that the subject of the provision is the ending of a declaration of a restricted place. The clause provides that a person may make an application to the chief executive to end a restricted place declaration. The clause also omits section 164(3) which currently provides the application requirements for removal of a

restricted place entry from the biosecurity register. Subsection 164(3) is not required as new section 164C (inserted by clause 51) states application requirements for the ending of declarations for restricted places, restricted animals and restricted biosecurity matter.

*Clause 51* inserts new sections 164A, 164B and 164C. New sections 164A and 164B allow stated persons to make an application to the chief executive to end a declaration of restricted animals and restricted biosecurity matter respectively. New section 164C provides that applications for ending a declaration of a restricted place, restricted animal and restricted biosecurity matter must be in the prescribed form, accompanied by the prescribed fee and provide sufficient detail to describe why the restricted place, restricted animal or restricted biosecurity matter no longer pose a biosecurity risk.

*Clause 52* amends section 167 which currently is confined to decisions on applications that relate to restricted places. It replaces section 167(2) to provide, in effect, that where the chief executive has requested further information to decide the application for ending the declaration of a restricted place, restricted animal or restricted biosecurity matter, the chief executive is taken to have refused the application if a decision is not made within 30 days of receiving the additional information.

*Clause 53* replaces the current section 168 concerning the chief executive's obligation to maintain a biosecurity register that includes a register of biosecurity entities and a register of restricted places. It extends the obligation to also include a register of restricted animals and restricted biosecurity matter.

*Clause 54* amends section 169 about information which is required to be kept on the biosecurity register to include information on restricted places, restricted animals and restricted biosecurity matter. For each restricted place, the biosecurity register must include the address, local government area, the name (if any) of the place (for example the property name), the property identification code (PIC) (if any) and any restrictions on the use of the place and dealings with carriers at the place or dealings with designated animals or designated biosecurity matter at the place including after the declaration of the place has ended. For each restricted animal, the register must include information to identify the animal and any restrictions on dealings with the animal. For restricted biosecurity matter, the register must contain information that identifies the biosecurity matter and restrictions on dealings with the biosecurity matter.

Clause 54 also omits the reference to biosecurity risk status details (see also the omission of biosecurity risk status details in section 148 by clause 42 and 149 by clause 43). The term biosecurity risk status details can be confused with terminology used in connection with the NLIS. Also the majority of biosecurity entities will not have a biosecurity risk status. Information on the risk posed by a registered biosecurity entity can be maintained administratively if appropriate so it is unnecessary to record such details on the biosecurity register.

*Clause 55* omits the reference in section 170 to biosecurity risk status details as these will not be recorded in the register under section 169 (as amended by clause 54).

*Clause 56* amends section 171 to omit reference to biosecurity risk status details as these will not be recorded on the biosecurity register under section 169 (as amended by clause 54). Hence there will be no requirement to correct or update such information under legislation.

*Clause 57* replaces section 172 which currently requires the chief executive to publish all the information in the biosecurity register on the department's website. There is no public policy justification for the publication or release of information about all the matters recorded in the register in every circumstance. Instead, the amendment provides that certain information about registered biosecurity entities must be published while information may be published about restricted places, restricted animals and restricted biosecurity matter. Giving discretion to publish information about restricted places, animals and designated biosecurity matter is to allow for circumstances where there is a public interest in disclosure of the information including where the restrictions would be ineffectual without disclosure of the information. For example, if a place was restricted for the keeping of bees then this could be ineffectual unless the restrictions were made public. Generally, however, information about restrictions due to contamination with organochlorides, lead, antimicrobials, animals having been fed restricted animal material or animal having been imported would not be published and relevant persons would be provided more targeted notification.

For a biosecurity entity required to be registered because they keep the threshold number of designated animals or threshold amount of designated biosecurity matter, the chief executive must publish only the address, local government area and any name and PIC of each designated place for which the entity is registered. The chief executive will have discretion to publish other information recorded in the register. This includes any other information held in the biosecurity register for a registered biosecurity entity. It includes information about a biosecurity entity required to be registered only because they are a beekeeper. Further, clause 55 provides that the chief executive may publish all or part of the information held on the register for a restricted place, restricted animal or restricted biosecurity matter.

*Clause 58* amends section 173 to enable the chief executive to provide a copy of information held on the biosecurity register for a registered biosecurity entity, restricted place, restricted animal or restricted biosecurity matter, upon application by a person and payment of the prescribed fee. However, a person may only be given information relating to a restricted place if, they are an occupier, owner or registered biosecurity entity for the place, under written consent of the place's owner, the information has been published on the department's website under section 172(2) or the giving of the information is required or permitted under the Act or another Act. A person may only be given information relating to a restricted animal if, they keep or own the animal, they own the place where the animal is kept, under written consent of the animal's owner, the information has been published on the department's website under section 172(2) or the giving of the information is required or permitted under the Act or another Act. A person may only be given information relating to restricted biosecurity matter if, they keep or own the matter, they own the place where the matter is kept, under written consent of the matter's owner, the information has been published on the department's website under section 172(2) or the giving of the information is required or permitted under the Act or another Act.

*Clause 59* inserts a new section 173A concerning the use by the NLIS administrator, of information given under subsection 173(6) as renumbered by the Bill. The section enables the chief executive to authorise the NLIS administrator, either generally or specifically and subject to conditions, to disclose all or part of the information to a person or class of persons (such as abattoir operators). The section also allows the NLIS administrator to publish the information provided by the chief executive, on a website maintained by the NLIS administrator, provided access to the information is limited to authorised recipients or those

persons to whom the disclosure is permitted under legislation. This is to ensure release of information by the NLIS administrator that relates to restricted places or restricted animals does not breach section 493 of the Biosecurity Act. The information authorised to be given by the NLIS administrator could also be information derived by combining information recorded about restricted animals with other information held by the NLIS administrator. For example, the chief executive would give the NLIS administrator information about restrictions on dealings with a restricted animal that is contaminated with lead. The chief executive could approve the release of the information or information derived from it by the NLIS administrator to abattoirs and feedlots consistent with the NLIS conditions of use. This would allow the NLIS administrator to collate the information about the restricted animal with information about the movement of the animal and flag an 'early warning' on the PIC where an animal restricted due to lead is currently held. The chief executive would not be responsible for the 'early warning system' about the PIC – this is an initiative of the Australian Meat Industry Council that administer the NLIS system – but providing the information to the NLIS administrator and authorising its limited release would contribute to ensuring appropriate sampling at slaughter and exclusion of meat that is unfit for human consumption. Similarly, the chief executive would give the NLIS administrator information about restrictions on places contaminated with organochlorides. The chief executive could approve the release of the information or information derived from it by the NLIS administrators to abattoirs and feedlots consistent with the NLIS conditions of use. This would allow the NLIS administrator to collate the information about the PIC with information about the movement of an animal from that PIC and flag the animal as contaminated with organochlorides for 183 days as well as the PIC of any place where such an animal is being held during those 183 days. However, the chief executive would not be responsible for maintaining the 'early warning system' about the PIC.

*Clause 60* amends the first dot point example to subsection 236(1)(g) to reflect the change in terminology from *restricted animal material for ruminants* to *restricted animal material*, which is effected by clause 31.

*Clause 61* amends the first example under subsection 373(2) to quote a more appropriate species for the example and better illustrate the operation of the provision.

*Clause 62* amends section 376 to require an authorised officer who gives a biosecurity order to give an information notice for the order (which triggers provisions of the Biosecurity Act that allow for review of the decision). New subsection 376(3) provides that if the order is given in writing, it must be accompanied by or include an information notice. New subsection 376(4)(a) provides that an authorised officer must, if giving an oral order, advise the recipient that as soon as practicable an information notice will be given for the decision to give the order. The authorised officer must also advise the recipient they have a right to apply for internal review of the decision to give the order and if the recipient applies for an internal review, the recipient may apply immediately (to QCAT) for a stay of the decision to give the order. New subsection 376(4)(b) provides that as soon as practicable after giving the order orally, the authorised officer must confirm the order by giving the recipient a notice stating the order's terms, date given and be accompanied by or include an information notice.

*Clause 63* amends section 379 to provide that the chief executive may publish on the department's website, all or part of the information held on the register of biosecurity orders. Currently the chief executive must publish all of the information.

*Clause 64* amends section 431 to provide that the chief executive may publish the register of accredited certifiers on the department's website. Currently the chief executive must publish the register.

*Clause 65* replaces section 468 which currently provides for when compliance audits must be conducted and when additional compliance audits must be conducted with a section dealing specifically with additional compliance audits. This reflects that initially compliance audits will be required only where a condition of accreditation requires it. The replacement section will apply where a compliance audit is conducted either under an accreditation condition imposed under section 430 of the Biosecurity Act or as a result of a compliance audit required by the chief executive to address one or more non-compliances with the accreditation. The section provides that additional compliance audits may be required in relation to identification of one or more non-compliances and must be conducted within a stated reasonable period. The section also provides that it is an offence for an accredited certifier not to comply with the requirement for additional audits without a reasonable excuse and provides a maximum penalty of 100 penalty units.

*Clause 66* replaces section 494 concerning personal information kept on the biosecurity register. The effect is that where (in addition to the address) the inclusion of particular information (for example a person's contact details, the name of a place or other details in a register) would place at risk the personal safety of the person or another person, these details must not be set out in a part of the register that is publicly available or included in a copy of information from the register.

*Clause 67* omits section 522 of the Biosecurity Act which inserted a new provision (section 19A) in the *Chemical Usage (Agricultural and Veterinary) Control Act 1988* which concerns the power of the chief executive to make decisions on the chemical residue status under the in relation to a registered biosecurity entity and provide information notices where decisions are made. This new provision is no longer required as the majority of registered biosecurity entities will not have a chemical residue status. Details of the chemical residue risk of a registered biosecurity entity can be maintained administratively without the need to do so under legislation.

*Clause 68* amends schedule 1, part 4 to replace the term *restricted biosecurity matter* with *restricted matter* for consistency with chapter 2 of the Biosecurity Act. Clause 68 also omits several entries from the list of prohibited matter affecting plants in schedule 1, part 7 as these species have now been detected in Queensland and as a consequence are included in schedule 2 as restricted matter, category 1. The clause also inserts a new entry in the list of prohibited matter affecting plants for giant pine scale.

*Clause 69* omits the entry for small hive beetle from schedule 2, part 1 which lists restricted matter other than invasive biosecurity matter. The clause also amends schedule 2, part 1, (Restricted matter affecting plants) and schedule 2, part 2 (Invasive plants) to insert a number of new entries together with their respective category numbers.

*Clause 70* amends schedule 5 (Dictionary) to insert definitions of new terms used throughout the provisions and omit definitions which are no longer required.

## Part 5 Other amendments of Animal Management (Cats and Dogs) Act 2008

*Clause 71* provides for minor amendments by Schedule 1 for consistency with current drafting standards.

## Schedule 1 Other amendments of Animal Management (Cats and Dogs) Act 2008

Schedule 1 provides for minor amendments to the AMCD Act to bring that Act into consistency with current drafting standards. These include the removal of notes that simply cross reference and editor's notes that refer to a department's address.