

Queensland

Biosecurity Act 2014

Current as at 26 April 2024—revised version

Reprint note
An amendment to section 115(2)(a) was incorrectly incorporated into a previous version of this reprint—see 2024 Act No. 17 s 89(3).

This version was corrected on 8 August 2025.

Amendments not yet in force
There are amendments for this title that have been enacted but have not yet commenced. The following amendments that have not commenced are not incorporated in this reprint but are annotated on the website for information—2024 Act No. 17.

These annotations were incorporated on 10 September 2025. See the List of legislation in the Legislative history for uncommenced amendments enacted after this date.

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Queensland

Biosecurity Act 2014

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Biosecurity Act 2014

An Act to provide for a comprehensive biosecurity framework to manage the impacts of animal and plant diseases and pests in a timely and effective way and ensure the safety and quality of animal feed, fertilisers and other agricultural inputs

Chapter 1 Preliminary

Part 1 Introduction

1 Short title

This Act may be cited as the *Biosecurity Act 2014*.

2 Commencement

(1) This Act commences on a day to be fixed by proclamation.

(2) However, if no day has been fixed by 1 July 2016, the Act commences on that day.

(3) The *Acts Interpretation Act 1954*, section 15DA does not apply to this Act.

3 Simplified outline of main provisions of Act

(1) Chapter 1 describes the purposes and scope of the Act and defines key concepts.

(2) Chapter 2 imposes—

(a) a general biosecurity obligation on persons dealing with biosecurity matter or a carrier of biosecurity matter; and

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(b) other obligations in relation to biosecurity matter that is prohibited or restricted matter; and

(c) obligations on persons to notify an inspector about particular incidents.

(3) Chapter 3 establishes the functions and obligations of local governments and continues the Land Protection Fund.

(4) Chapter 4 deals with invasive animal boards and barrier fencing.

(5) Chapter 5 provides for codes of practice and guidelines to be made under this Act.

(6) Chapter 6 establishes procedures for dealing with biosecurity emergencies and risks.

(7) Chapter 7 provides for the registration of entities and places and a system for the identification and tracking of particular animals.

(8) Chapter 8 creates a permit process to allow particular dealings with biosecurity matter that is prohibited or restricted matter.

(9) Chapter 9 provides for the making of programs for the surveillance, and prevention and control, of biosecurity risks.

(10) Chapter 10 provides for persons appointed to perform functions under the Act to exercise powers and enter places, seize things and obtain information.

(11) Chapter 11—

(a) establishes a scheme for payment of statutory compensation for particular damage or loss arising from action taken under this Act; and

(b) deals with the effect of industry compensation schemes on statutory compensation.

(12) Chapter 12 deals with evidence, legal proceedings and the review of decisions made under the Act.

(13) Chapter 13 provides for the giving of biosecurity orders to persons to deal with biosecurity risks.

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(14) Chapter 14 empowers the State to enter into agreements with other jurisdictions, local governments, industry bodies and natural resource management bodies to achieve the purposes of, and ensure compliance with, this Act.

(15) Chapter 15 provides for an accreditation scheme to enable convenient and efficient compliance with, or exemption from, particular requirements of this Act.

(16) Chapter 16 establishes auditing processes for accreditations given, and agreements made, under this Act.

(17) Chapter 17 provides for the amendment, suspension and cancellation of particular authorities granted under this Act.

(18) Chapter 18 deals with miscellaneous matters for the administration of this Act.

(19) Chapter 19 repeals particular Acts and provides for savings and transitional matters.

Part 2 Purposes of Act and achieving the purposes

4 Purposes of Act

(1) The main purposes of this Act are as follows—

(a) to provide a framework for an effective biosecurity system for Queensland that—

(i) helps to minimise biosecurity risks; and

(ii) facilitates responding to impacts on a biosecurity consideration, including responding to biosecurity events, in a timely and effective way;

(b) to ensure the safety and quality of animal feed, fertilisers and other agricultural inputs;

(c) to help align responses to biosecurity risks in the State with national and international obligations and

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requirements for accessing markets for animal and plant produce, including live animals and plants.

(2) It is also a purpose of this Act to manage risks associated with the following—

(a) emerging, endemic and exotic pests and diseases that impact on—

(i) plant and animal industries, including agriculture, aquaculture, horticulture, fisheries and forestry industries; or

(ii) the built environment; or

(iii) companion or leisure animals; or

(iv) biodiversity and the natural environment; or

(v) tourism, lifestyle and pleasure industries; or

(vi) infrastructure and service industries, including power, communication, shipping and water supplies;

(b) the transfer of diseases from animals to humans and from humans to animals;

(c) biological, chemical and physical contaminants in carriers.

(3) In this section—

built environment means the environment, but having particular regard to the qualities and characteristics of locations, places and areas arising out of the existence of buildings and other examples of human activity.

5 How purposes are primarily achieved

The purposes of this Act are to be achieved primarily by—

(a) imposing a general obligation on persons to prevent or minimise the impact of biosecurity risks on human health, social amenity, the economy and the environment (each a ***biosecurity consideration***); and

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(b) regulating activities involving biosecurity matter or carriers; and

(c) including in risk-based decision-making under this Act the principle that lack of full scientific certainty should not be used as a reason to postpone taking action to prevent a biosecurity event or to postpone a response to a biosecurity risk; and

(d) providing for flexible and timely ways of minimising and mitigating biosecurity risks; and

(e) providing for monitoring and enforcement of compliance with this Act; and

(f) providing for codes of practice relating to a person's obligations under this Act; and

(g) providing for the chief executive to make guidelines or policies about the application of this Act and how a person may comply with obligations imposed under this Act; and

(h) providing for a framework that improves the capacity of local governments, industry and the community generally to respond to biosecurity risks.

Part 3 Application and operation of Act

6 Scope of Act generally

This Act includes within its scope—

(a) acts and omissions on or in land and waters of the State in relation to biosecurity matter that may pose a biosecurity risk; and

(b) any dealing with prohibited matter, restricted matter or carriers that may pose a biosecurity risk.

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7 Act binds all persons

(1) This Act binds all persons, including the State and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.

(2) However, the Commonwealth or a State can not be prosecuted for an offence against this Act.

8 General application of Act to ships

(1) This section states the application of this Act to ships in Queensland waters and ships in waters beyond the outer limit of Queensland waters (***other waters***).

(2) This Act applies to—

(a) a ship in Queensland waters; and

(b) to the extent this Act applies in other waters, including, for example, under the *Crimes at Sea Act 2001*—a ship in other waters if the ship is travelling from a place in Queensland to another place in Queensland.

(3) This Act does not apply to—

(a) a ship in other waters if the ship is travelling from a place outside of Queensland to another place outside of Queensland; or

(b) a ship of the Australian Defence Force or of a defence force of another country.

9 Relationship with particular Acts

(1) This Act is in addition to, and does not limit, any other Act.

(2) If this Act is inconsistent with an Act as follows, that Act prevails, but only to the extent of the inconsistency—

(a) *Biological Control Act 1987*;

(b) *Food Act 2006*;

(c) *Food Production (Safety) Act 2000*;

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(d) the *Gene Technology Act 2000* (Cwlth), as applied as a law of Queensland by the *Gene Technology (Queensland) Act 2016*;

(e) *Public Health Act 2005*.

(3) Subject to subsection (4), this Act does not affect the application of a relevant Act.

(4) A person who does an act authorised under chapter 6, part 1 or 2 or an inspector, a person directed by an inspector or a person authorised by an inspector who takes steps under chapter 10, part 3 is taken not to commit an offence against a relevant Act only because of doing the act or taking the steps.

(5) The *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*, chapter 2 does not apply in relation to a barrier fence.

(6) In this section—

relevant Act means any of the following—

(a) *Economic Development Act 2012*;

(b) *Fisheries Act 1994*;

(c) *Forestry Act 1959*;

(d) *Marine Parks Act 2004*;

(e) *Nature Conservation Act 1992*;

(f) *Planning Act 2016*;

(g) *Vegetation Management Act 1999*.

10 Contravention of this Act does not create civil cause of action

No provision of this Act creates a civil cause of action based on a contravention of the provision.

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11 Act does not affect other rights or remedies

(1) This Act does not affect or limit a civil right or remedy that exists apart from this Act, whether at common law or otherwise.

(2) Without limiting subsection (1), compliance with this Act does not necessarily show that a civil obligation that exists apart from this Act has been satisfied or has not been breached.

12 Community involvement in administration of Act

This Act is to be administered, as far as practicable, in consultation with, and having regard to the views and interests of, public sector entities, local governments, industry, Aborigines and Torres Strait Islanders under Aboriginal tradition and Island custom, interested groups and persons and the community generally.

Part 4 Interpretation

Division 1 Dictionary

13 Definitions

The dictionary in schedule 4 defines particular words used in this Act.

Division 2 Key concepts and definitions

14 What is a *biosecurity event*

A ***biosecurity event*** is an event comprising something that—

(a) has happened, is happening or may happen; and

(b) has had, is having or may have a significant adverse effect on a biosecurity consideration; and

(c) was or is being caused by, or may be or may have been caused by, biosecurity matter.

Examples—

1 A horse has died and it has been confirmed that the death was caused by the Hendra virus infection. This may have a significant adverse effect on human health.

2 There has been a suspected outbreak of foot and mouth disease in another State that may spread to the State and may have a significant adverse effect on the economy.

15 What is *biosecurity matter*

(1) ***Biosecurity matter*** is—

(a) a living thing, other than a human or part of a human; or

(b) a pathogenic agent that can cause disease in—

(i) a living thing, other than a human; or

(ii) a human, by the transmission of the pathogenic agent from an animal to the human; or

(c) a disease; or

(d) a contaminant.

(2) If biosecurity matter has a life cycle, a reference in this Act to the biosecurity matter includes a reference to the biosecurity matter at each stage of its life cycle.

Examples of stages of the life cycle for particular biosecurity matter—

egg, larva, pupa, adult

(3) If schedule 1 or 2, a prohibited matter regulation, a restricted matter regulation, a biosecurity zone regulatory provision or a movement control order states a common name for biosecurity matter, it is sufficient in a provision of this Act to refer to the biosecurity matter by the common name.

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16 What is a *biosecurity risk*

A ***biosecurity risk*** is a risk of any adverse effect on a biosecurity consideration caused by, or likely to be caused by—

(a) biosecurity matter; or

(b) dealing with biosecurity matter or a carrier; or

(c) carrying out an activity relating to biosecurity matter or a carrier.

17 What is a *carrier*

(1) A ***carrier*** is any animal or plant, or part of any animal or plant, or any other thing—

(a) capable of moving biosecurity matter attached to, or contained in, the animal, plant or other thing from a place to another place; or

(b) containing biosecurity matter that may attach to or enter another animal or plant, or part of another animal or plant, or another thing.

(2) In this section—

thing—

(a) means a thing, whether alive, dead or inanimate; and

(b) includes a human.

18 What is a *contaminant*

(1) A ***contaminant*** is anything that may be harmful to animal or plant health or pose a risk of any adverse effect on a biosecurity consideration.

(2) The presence of a ***contaminant*** in a carrier may be harmful to any animal or plant, or part of an animal or plant, that the carrier attaches to or enters.

(3) The presence of a contaminant in a carrier may be caused by—

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(a) manufacturing, packaging, packing, preparing, processing, producing, storing, treating or transporting the carrier; or

(b) environmental contamination of the carrier.

Examples of a contaminant—

- pathogenic bacteria in irrigation water
- environmental contaminants, including dioxins and residual organochlorine pesticides and nanoparticles
- heavy metals in fertilisers and animal feed
- waste from industrial and mining activities, including waste containing asbestos, heavy metals or radioactive material
- weed seeds

19 What is *prohibited matter*

Prohibited matter is biosecurity matter that, for the time being, is established as prohibited matter under chapter 2.

20 Prohibited matter criteria

Biosecurity matter satisfies the prohibited matter criteria if—

(a) the biosecurity matter is not currently present or known to be present in the State; and

(b) there are reasonable grounds to believe that if it did enter the State or part of the State the biosecurity matter may have a significant adverse effect on a biosecurity consideration.

Example of significant adverse effect on a biosecurity consideration—

The entry of particular biosecurity matter into the State may have a significant adverse effect on the economy if, for the purposes of trade in or market access for a product, there were to be imposed a requirement to prove that the product is free from the biosecurity matter.

21 What is *restricted matter*

(1) ***Restricted matter*** is biosecurity matter that, for the time being, is established as restricted matter under chapter 2.

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(2) Restricted matter has the category number or numbers assigned to it in schedule 2 or in the restricted matter regulation that, under chapter 2, provides for its establishment as restricted matter.

(3) A reference in this Act to restricted matter of a particular category number is a reference to restricted matter that is assigned that category number in schedule 2 or the restricted matter regulation.

22 Restricted matter criteria

Biosecurity matter satisfies the restricted matter criteria if—

(a) the biosecurity matter is currently present in the State; and

(b) there are reasonable grounds to believe that, if restrictions under this Act are not imposed on the biosecurity matter to reduce, control or contain it, it may have an adverse effect on a biosecurity consideration.

Chapter 2 Significant obligations and offences

Part 1 General biosecurity obligation

23 What is a *general biosecurity obligation*

(1) This section applies to a person who deals with biosecurity matter or a carrier, or carries out an activity, if the person knows or ought reasonably to know that the biosecurity matter, carrier or activity poses or is likely to pose a biosecurity risk.

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(2) The person has an obligation (a ***general biosecurity obligation***) to take all reasonable and practical measures to prevent or minimise the biosecurity risk.

(3) Also, the person has an obligation (also a ***general biosecurity obligation***)—

(a) to prevent or minimise adverse effects on a biosecurity consideration of the person's dealing with the biosecurity matter or carrier or carrying out the activity; and

(b) to minimise the likelihood of causing a biosecurity event, or to limit the consequences of a biosecurity event caused, by dealing with the biosecurity matter or carrier or carrying out the activity; and

(c) not to do or omit to do something if the person knows or ought reasonably to know that doing or omitting to do the thing may exacerbate the adverse effects, or potential adverse effects, of the biosecurity matter, carrier or activity on a biosecurity consideration.

Examples of things that may exacerbate the adverse effects, or potential adverse effects, of biosecurity matter, a carrier or an activity—

- failing to isolate an infected animal from a herd
- failing to wash footwear before leaving a property on which anthrax is present
- inappropriately disposing of leaf litter containing a plant virus or disease
- failing to take reasonable steps to reduce contaminants in plants and animals, including, for example, by allowing designated animals (not including bees) to graze on land contaminated with heavy metals or by using water that may contain a contaminant to irrigate crops
- failing to manage the impact of invasive plants and animals on a person's land

(4) For subsection (1), carrying out an activity includes entering, being present at or leaving a place where biosecurity matter or a carrier is present.

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24 General biosecurity obligation offence provision

(1) A person on whom a general biosecurity obligation is imposed must discharge the obligation.

Maximum penalty—

(a) if the offence is an aggravated offence—3,000 penalty units or 3 years imprisonment; or

(b) if the offence is not an aggravated offence—

(i) for a breach in relation to prohibited matter—1,000 penalty units or 1 year's imprisonment; or

(ii) for a breach in relation to restricted matter—750 penalty units or 6 months imprisonment; or

(iii) otherwise—500 penalty units.

(2) If the offence is not an aggravated offence, it is a defence for the person to show that the person had a reasonable excuse for failing to discharge the obligation.

25 Effect of regulation for discharge of general biosecurity obligation

(1) This section applies if a provision of a regulation (***regulation provision***) is identified in the regulation as a provision that prescribes a way of discharging a person's general biosecurity obligation.

(2) Unless otherwise stated in the regulation, the regulation provision does not prescribe all that a person to whom the provision applies must do, or must not do, to discharge the person's general biosecurity obligation.

(3) However, for applying the general biosecurity obligation offence provision, the person fails to discharge the general biosecurity obligation if the person contravenes the regulation provision.

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26 Effect of code of practice for discharge of general biosecurity obligation

(1) This section applies if a code of practice states a way of discharging a person's general biosecurity obligation.

(2) Unless otherwise stated in the code of practice, the code of practice does not state all that a person to whom the code of practice applies must do, or must not do, to discharge the person's general biosecurity obligation.

(3) However, for applying the general biosecurity obligation offence provision, the person fails to discharge the general biosecurity obligation if the person—

(a) contravenes, or otherwise acts inconsistently with, the code of practice; and

(b) does not follow a way that is as effective as, or more effective than, the code of practice for discharging the general biosecurity obligation.

(4) Also, for applying the general biosecurity obligation offence provision, if a regulation requires a person to comply with the whole or a stated part of a code of practice to discharge the person's biosecurity obligation, the person fails to discharge the general biosecurity obligation if the person contravenes, or otherwise acts inconsistently with, the code of practice or stated part.

27 Aggravated offences—significant damage to health and safety of people or to the economy or environment

(1) An offence is an ***aggravated offence*** if the commission of the offence causes significant damage, or is likely to cause significant damage, to the health and safety of people or to the economy or the environment.

(2) To prove an aggravated offence, the prosecution must prove that the person who committed the offence—

(a) intended the person's conduct to cause significant damage to the health and safety of people or to the economy or the environment; or

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(b) was reckless as to whether the conduct would cause significant damage to the health and safety of people or to the economy or the environment.

28 Defence of due diligence

(1) In a proceeding for an offence against the general biosecurity obligation offence provision, it is a defence for a person to prove that the person took all reasonable precautions and exercised proper diligence to prevent the commission of the offence by the person or by another person under the person's control.

(2) Without limiting the ways in which a person proves the matter stated in subsection (1), a person proves the matter if the person proves that—

(a) the conduct alleged to constitute the offence was due to—

(i) an act or default of another person; or

(ii) reliance on information supplied by another person; and

(b) the person made all reasonable enquiries about—

(i) whether any animal, plant or other thing was the carrier of prohibited matter or restricted matter the subject of the offence alleged; and

(ii) any necessary treatments that may be required for any carrier of any biosecurity matter to rid the carrier of the biosecurity matter; and

(c) any of the following applied—

(i) the person carried out all checks on the health of any biosecurity matter or carrier of any biosecurity matter as were reasonable in all the circumstances;

(ii) if another person carried out checks on the health of any biosecurity matter or carrier of any biosecurity matter, it was reasonable in all the

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circumstances to rely on the checks carried out by the other person;

Example—

checks carried out by a veterinary surgeon

(iii) it was reasonable in all the circumstances to rely on checks carried out by another person who supplied any biosecurity matter or carrier of any biosecurity matter to the person; and

(d) the person took the precautions that were reasonable in all the circumstances to prevent the spread of any biosecurity matter.

(3) Also, without limiting the ways in which a person proves the matter stated in subsection (1) or (2)(c)(i), a person proves the matter if the person proves that—

(a) if a regulation prescribes a way in which a person's general biosecurity obligation can be discharged to prevent or minimise a biosecurity risk posed by the relevant biosecurity matter or carrier of the biosecurity matter—the person followed the prescribed way; or

(b) if a code of practice states a way in which a person's general biosecurity obligation can be discharged to prevent or minimise a biosecurity risk posed by the relevant biosecurity matter or carrier of the biosecurity matter—the person adopted and followed the stated way.

(4) This section is not intended to exclude the operation of the Criminal Code, section 24.

(5) In subsection (2)(a) and (c)—

another person does not include a following person—

(a) an employee or agent of the defendant;

(b) in the case of a defendant that is a body corporate, a director, employee or agent of the defendant.

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Part 2 Prohibited matter

Division 1 Establishing what is prohibited matter

29 Basic prohibited matter declaration provision

(1) Biosecurity matter mentioned in schedule 1 is prohibited matter.

(2) However, the operation of subsection (1) may be affected by a prohibited matter regulation or an emergency prohibited matter declaration.

30 Prohibited matter regulation

(1) A regulation (a ***prohibited matter regulation***) may—

(a) declare that particular biosecurity matter not mentioned in schedule 1 is prohibited matter; or

(b) declare that particular biosecurity matter mentioned in schedule 1, or declared to be prohibited matter under an emergency prohibited matter declaration, is no longer prohibited matter.

(2) The Minister may recommend to the Governor in Council the making of a regulation under subsection (1)(a) only if the Minister is satisfied that—

(a) the biosecurity matter satisfies the prohibited matter criteria as provided for in section 20; and

(b) prompt action is required to declare the biosecurity matter to be prohibited matter.

(3) The Minister may recommend to the Governor in Council the making of a regulation under subsection (1)(b) only if the Minister is satisfied that—

(a) 1 or more of the following applies—

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(i) the biosecurity matter is no longer contained and can not be eradicated;

(ii) the biosecurity matter has spread and is in a large area of the State;

(iii) the rate of spread of the biosecurity matter means that it is likely to spread over a large area of the State;

(iv) for some other reason, it is no longer practical, or it is otherwise no longer appropriate, for the biosecurity matter to be subject to the provisions of this Act relating to prohibited matter; and

(b) prompt action is required to declare the biosecurity matter not to be prohibited matter.

(4) A prohibited matter regulation that declares biosecurity matter mentioned in schedule 1 no longer to be prohibited matter may also declare the biosecurity matter to be restricted matter.

31 Chief executive may make emergency prohibited matter declaration

(1) The chief executive may, by notice signed by the chief executive (an ***emergency prohibited matter declaration***)—

(a) declare any of the following to be prohibited matter—

(i) biosecurity matter not mentioned in schedule 1;

(ii) biosecurity matter declared under a prohibited matter regulation no longer to be prohibited matter; or

Note—

Subsection (1)(a)(ii) allows biosecurity matter that is included in schedule 1, but that a prohibited matter regulation has declared to be no longer prohibited matter, to be urgently re-established as prohibited matter.

(b) declare that particular biosecurity matter mentioned in schedule 1, or declared to be prohibited matter, under a

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prohibited matter regulation, is no longer prohibited matter.

(2) The chief executive may make an emergency prohibited matter declaration under subsection (1)(a) only if the chief executive is satisfied that—

(a) the biosecurity matter satisfies the prohibited matter criteria as provided for in section 20; and

(b) urgent action is required to declare the biosecurity matter to be prohibited matter.

(3) The chief executive may make an emergency prohibited matter declaration under subsection (1)(b) only if the chief executive is satisfied that—

(a) 1 or more of the following applies—

(i) the biosecurity matter is no longer contained and can not be eradicated;

(ii) the biosecurity matter has spread and is in a large area of the State;

(iii) the rate of spread of the biosecurity matter means that it is likely to spread over a large area of the State;

(iv) for some other reason, it is no longer practical, or it is otherwise no longer appropriate, for the biosecurity matter to be subject to the provisions of this Act relating to prohibited matter; and

(b) urgent action is required to declare the biosecurity matter not to be prohibited matter.

(4) The chief executive must publish an emergency prohibited matter declaration in full on the department's website contemporaneously with the making of the declaration, or, if that is not practicable, with the least practicable delay after the declaration is made.

(5) As soon as practicable after making an emergency prohibited matter declaration, the chief executive must—

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(a) publish in the gazette a notice of the making of the declaration, the day the declaration started, a description of the biosecurity matter the subject of the declaration and the places where a copy of the declaration may be obtained; and

(b) take all reasonable steps to ensure that persons likely to be directly affected by the declaration are made aware of the making of the declaration, including, for example, by some or all of the following—

(i) advertising in newspapers, on radio and on television;

(ii) electronically using emails and text messages;

(iii) automated telephoning.

(6) An emergency prohibited matter declaration is not invalid only because of a failure of the chief executive to comply with subsection (4) or (5).

32 Matters for inclusion in emergency prohibited matter declaration

An emergency prohibited matter declaration must include provisions that state—

(a) a description of the biosecurity matter the subject of the declaration; and

(b) when the declaration starts; and

(c) when the declaration expires if it is not sooner revoked.

33 Effect and duration of emergency prohibited matter declaration

(1) An emergency prohibited matter declaration has effect from when it is made.

(2) Unless it is sooner revoked, an emergency prohibited matter declaration stays in force until the earlier of the following to happen—

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(a) 3 months elapse after the making of the emergency prohibited matter declaration;

(b) a prohibited matter regulation comes into force that deals with the biosecurity matter the subject of the emergency prohibited matter declaration.

34 Requirement for both prohibited matter regulation and emergency prohibited matter declaration to classify new prohibited matter

A prohibited matter regulation or emergency prohibited matter declaration that declares biosecurity matter to be prohibited matter must also declare in which part of schedule 1 the prohibited matter may be taken to be included.

35 Up-to-date listing of all prohibited matter to be available on the department's website

The Minister must keep on the department's website an up-to-date list of all biosecurity matter that is for the time being prohibited matter.

Division 2 Obligations relating to prohibited matter

36 Reporting presence of prohibited matter

(1) This section applies to a person if the person becomes aware of the presence of biosecurity matter that is prohibited matter, or that the person believes or ought reasonably to believe is prohibited matter—

(a) at a place of which the person is an occupier; or

(b) in the person's possession or under the person's control; or

(c) in or on a carrier at a place of which the person is an occupier; or

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(d) in or on a carrier in the person's possession or under the person's control.

(2) If the person is not aware that any inspector has been advised, or has otherwise become aware, of the presence of the biosecurity matter, the person must advise an inspector of the presence of the biosecurity matter without delay.

Maximum penalty—1,000 penalty units or 1 year's imprisonment.

(3) However, the person is not required to advise an inspector under subsection (2) if—

(a) the biosecurity matter is in the possession of a person, or is otherwise under a person's control, under a prohibited matter permit; or

(b) the biosecurity matter is in the lawful possession of a person, or is otherwise under a person's lawful control, under another Act or a law of the Commonwealth.

(4) Also, the person is not required to advise an inspector under subsection (2) if the person becomes aware, before the person would otherwise be required to advise an inspector under the subsection, that advice of the presence of the biosecurity matter has been given to an inspector by another person.

Example—

A person would not be required to advise an inspector of the presence of prohibited matter in 1 of the person's animals if the veterinary surgeon who diagnosed the presence of the prohibited matter advised an inspector about it as soon as the diagnosis was made.

(5) The person must not take any action reasonably likely to exacerbate, and must take any action reasonably likely to minimise, the biosecurity risk posed by the prohibited matter.

Maximum penalty—1,500 penalty units or 1 year's imprisonment.

37 Dealing with prohibited matter

(1) A person must not deal with prohibited matter.

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Maximum penalty—1,000 penalty units or 1 year's imprisonment.

(2) A person does not commit an offence against subsection (1) only because the person advises an inspector under this part about the discovery of prohibited matter.

(3) Subsection (1) does not apply to a dealing with prohibited matter—

(a) that is—

(i) authorised under a prohibited matter permit; or

(ii) authorised under a biosecurity emergency order or biosecurity emergency order permit; or

(iii) for the purposes of its seizure under chapter 10 as evidence of the commission of an offence; or

(iv) authorised under another Act or a law of the Commonwealth; or

(b) for which the person has a reasonable excuse.

Part 3 Restricted matter

Division 1 Establishing what is restricted matter

38 Basic restricted matter declaration provision

(1) Biosecurity matter mentioned in schedule 2 is restricted matter.

(2) However, the operation of subsection (1) may be affected by—

(a) a restricted matter regulation; or

(b) a prohibited matter regulation, but only in the way mentioned in part 2, division 1.

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39 Restricted matter regulation

(1) A regulation (a ***restricted matter regulation***) may—

(a) declare that particular biosecurity matter not mentioned in schedule 2 is restricted matter; or

(b) declare that particular biosecurity matter mentioned in schedule 2 is no longer restricted matter.

(2) The Minister may recommend to the Governor in Council the making of a regulation under subsection (1)(a) only if the Minister is satisfied that—

(a) the biosecurity matter may pose a biosecurity risk; and

(b) the biosecurity matter satisfies the restricted matter criteria as provided for in section 22; and

(c) prompt action is required to declare the biosecurity matter to be restricted matter.

(3) The Minister may recommend to the Governor in Council the making of a regulation under subsection (1)(b) only if the Minister is satisfied that—

(a) it is no longer practical, or it is otherwise no longer appropriate, for biosecurity matter to be the subject of the provisions of this Act relating to restricted matter; and

(b) prompt action is required to declare the biosecurity matter not to be restricted matter.

40 Requirement for restricted matter regulation to classify new restricted matter

A restricted matter regulation that declares biosecurity matter to be restricted matter—

(a) must also declare in which particular provisions of schedule 2 the restricted matter may be taken to be included; and

(b) must assign a category number or category numbers to the restricted matter.

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41 Up-to-date listing of all restricted matter to be available on the department's website

The Minister must keep on the department's website an up-to-date list of all biosecurity matter that is for the time being restricted matter.

Division 2 Obligations relating to restricted matter

42 Reporting presence of category 1 or 2 restricted matter

(1) This section applies to a person if the person becomes aware of the presence of biosecurity matter that is category 1 or category 2 restricted matter, or that the person believes or ought reasonably to believe is category 1 or category 2 restricted matter—

(a) at a place of which the person is an occupier; or

(b) in the person's possession or under the person's control; or

(c) in or on a carrier at a place of which the person is an occupier; or

(d) in or on a carrier in the person's possession or under the person's control.

(2) If the person is not aware that any appropriate authorised officer has been advised, or has otherwise become aware, of the presence of the biosecurity matter, the person must advise an appropriate authorised officer of the presence of the biosecurity matter as soon as practicable, but not more than 24 hours, after becoming aware as mentioned in subsection (1).

Maximum penalty—

(a) for a breach in relation to category 1 restricted matter—750 penalty units or 6 months imprisonment; or

(b) for a breach in relation to category 2 restricted matter—200 penalty units.

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(3) However, the person is not required to advise an appropriate authorised officer under subsection (2) if—

(a) the biosecurity matter is in the possession of a person, or is otherwise under a person's control, under a restricted matter permit; or

(b) the biosecurity matter is in the lawful possession of a person, or is otherwise under a person's lawful control, under another Act or a law of the Commonwealth.

(4) Also, the person is not required to advise an appropriate authorised officer under subsection (2) if the person becomes aware, before the person would otherwise be required to advise an appropriate authorised officer under the subsection, that advice of the presence of the biosecurity matter has been given to an appropriate authorised officer by another person.

Example—

A person would not be required to advise an appropriate authorised officer of the presence of category 1 or category 2 restricted matter in 1 of the person's animals if the veterinary surgeon who diagnosed the presence of the restricted matter advised an appropriate authorised officer about it as soon as the diagnosis was made.

(5) The person must not take any action reasonably likely to exacerbate, and must take any action reasonably likely to minimise, the biosecurity risk posed by the restricted matter.

Maximum penalty—750 penalty units.

(6) In this section—

appropriate authorised officer means—

(a) if the biosecurity matter is or ought reasonably be believed to be category 1 restricted matter—an inspector; or

(b) if the biosecurity matter is or ought reasonably be believed to be category 2 restricted matter—an authorised officer.

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43 Distributing or disposing of category 3 restricted matter

(1) A person who has category 3 restricted matter in the person's possession or under the person's control must not distribute or dispose of the restricted matter unless the distribution or disposal is—

(a) performed in the way prescribed under a regulation; or

(b) authorised under a restricted matter permit; or

(c) performed by an authorised officer in the performance of the authorised officer's functions under this Act; or

(d) for the purpose of the Board of the Queensland Museum, or the Queensland Herbarium, identifying the restricted matter; or

(e) for the purpose of identifying the restricted matter by, or at the request of, a government entity with expertise in the identification of the restricted matter; or

(f) for a purpose prescribed by regulation.

Maximum penalty—500 penalty units.

(2) However, subsection (1) does not apply if—

(a) the category 3 restricted matter is an invasive plant; and

(b) an owner of the land on which the invasive plant is located disposes of the plant on the land by moving or disturbing the plant only to the extent reasonably necessary for the disposal.

(3) A person who has a thing infested with category 3 restricted matter in the person's possession or under the person's control must not distribute or dispose of the thing unless the distribution or disposal is—

(a) performed in the way prescribed under a regulation; or

(b) authorised under a restricted matter permit; or

(c) performed by an authorised officer in the performance of the authorised officer's functions under this Act.

Maximum penalty—500 penalty units.

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(4) However, subsection (3) does not apply if—

(a) a thing is infested with category 3 restricted matter that is an invasive plant; and

(b) an owner of the land on which the thing is located disposes of the thing on the land by moving or disturbing the thing only to the extent reasonably necessary for the disposal.

(5) In this section—

distribute, restricted matter or a thing, includes the following—

(a) giving the restricted matter or thing to another person;

(b) selling or trading in the restricted matter or thing;

(c) releasing the restricted matter or thing into the environment.

44 Requirement to kill and dispose of category 7 restricted matter

(1) A person who has category 7 restricted matter in the person's possession or under the person's control must, as soon as practicable, kill the restricted matter.

Maximum penalty—500 penalty units.

Note—

A guideline could apply under chapter 5 about ways to humanely kill noxious fish.

(2) A person who has, in the person's possession or under the person's control, category 7 restricted matter that has been killed must dispose of the restricted matter in the way prescribed under a regulation.

Maximum penalty—500 penalty units.

(3) Subsection (2) applies whether or not the person killed the category 7 restricted matter.

(4) However, a person does not commit an offence against subsection (1) or (2) if—

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(a) the restricted matter is in the possession of the person, or is otherwise under the person's control, under a restricted matter permit; or

(b) the restricted matter is in the lawful possession of the person, or is otherwise under the person's lawful control, under another Act or a law of the Commonwealth.

45 Offences about other categories of restricted matter

(1) A person must not do any of the following—

(a) move, or cause or allow to be moved, category 4 restricted matter;

(b) keep in the person's possession or under the person's control category 5 restricted matter;

(c) give food to category 6 restricted matter.

Maximum penalty—500 penalty units.

(2) A person does not commit an offence against subsection (1) if the person's action is authorised under—

(a) a restricted matter permit; or

(b) another Act or a law of the Commonwealth.

(3) A person does not commit an offence against subsection (1) if the person's action in relation to the restricted matter is for the purposes of the restricted matter's seizure under chapter 10 as evidence of the commission of an offence.

(4) A person does not commit an offence against subsection (1)(a) if the moving of the category 4 restricted matter is for the purposes of its identification by, or at the request of, a relevant entity.

(5) A person does not commit an offence against subsection (1)(b) if the keeping of the category 5 restricted matter is for the purposes of its identification by, or at the request of, a relevant entity.

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(6) A person does not commit an offence against subsection (1)(c) if the feeding is carried out in preparation for, or in the course of, lawfully baiting, trapping or shooting the category 6 restricted matter.

(7) In this section—

relevant entity means any 1 of the following—

(a) the Board of the Queensland Museum established under the *Queensland Museum Act 1970*;

(b) the department that includes the entity known as the Queensland Herbarium;

(c) another government entity with expertise in the identification of the restricted matter to be moved or kept.

Part 4 Other offences

45A What is *prohibited feed for pigs and poultry*

(1) ***Prohibited feed for pigs and poultry*** is material that—

(a) contains or may contain—

(i) a carcass of a mammal or of a bird; or

(ii) material derived from a mammal or bird; or

Examples—

- blood, bone, egg, faeces, meat, tissue
- food or food scraps that contain or may contain meat

(b) has been or may have been in contact with—

(i) a carcass of a mammal or of a bird; or

(ii) material derived from a mammal or bird.

Example for subsection (1)—

food or food scraps, from a restaurant, a hotel or domestic premises, that may have been in contact with meat

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(2) However, ***prohibited feed for pigs and poultry*** does not include—

(a) material prescribed by regulation; or

Examples of material that may be prescribed—

- a stated type of material (for example, a particular type of gelatine, tallow, milk, a milk product, a milk by-product or used cooking oil)
- material that has undergone a stated process
- material from a stated source, origin, location or environment
- material fed in a stated way or under stated circumstances or conditions

(b) material rendered in accordance with AS 5008.

Examples of rendered material—

blood meal, meat meal, meat and bone meal

45B What is *restricted animal material*

(1) ***Restricted animal material*** is material that—

(a) contains or may contain—

(i) a carcass of an animal that is a vertebrate; or

(ii) material derived from an animal that is a vertebrate; or

Examples—

blood, bone, egg, faeces, meal, meat, tissue

(b) has been or may have been in contact with—

(i) a carcass of an animal that is a vertebrate; or

(ii) material derived from an animal that is a vertebrate.

(2) However, ***restricted animal material*** does not include material prescribed by regulation.

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Examples of material that may be prescribed—

- a stated type of material (for example, a particular type of gelatine, tallow, milk, a milk product, a milk by-product, used cooking oil or mineralised seabird guano)
- material that has undergone a stated process
- material from a stated source, origin, location or environment
- material fed in a stated way or under stated circumstances or conditions

46 Prohibitions on feeding or supplying restricted animal material

(1) A person must not feed restricted animal material to a ruminant.

Maximum penalty—400 penalty units.

(2) A person who deals with a ruminant must take all reasonable steps to ensure the ruminant does not feed on restricted animal material.

Maximum penalty—400 penalty units.

(3) A person (the ***relevant person***) must not supply restricted animal material to another person if the relevant person knows the other person intends that a particular person (whether or not the relevant person or other person) is to feed the material to a ruminant.

Maximum penalty—400 penalty units.

(4) A person to whom subsection (1), (2) or (3) applies does not commit an offence against the subsection if—

(a) the person has a reasonable excuse; or

(b) both of the following apply—

(i) a regulation states that the subsection does not apply in a stated circumstance or other state of affairs (including, for example, if stated requirements are satisfied or stated attributes exist);

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(ii) the circumstance or other state of affairs exists in relation to the person for the ruminant the subject of the offence.

(5) A person who feeds restricted animal material to a ruminant does not commit an offence against subsection (1), (2) or (3) if—

(a) the person—

(i) is, under section 46B, permitted by the chief executive to feed the material to a ruminant lawfully used for a scientific purpose; and

(ii) feeds the material to the ruminant in the way permitted by the chief executive; or

(b) the feeding is authorised under another Act or a law of the Commonwealth.

Note—

For the effect of a biosecurity emergency order, see section 115.

46A Prohibitions on feeding or supplying prohibited feed for pigs and poultry

(1) A person must not feed prohibited feed for pigs and poultry to a pig or poultry.

Maximum penalty—400 penalty units.

(2) A person who deals with a pig or poultry must take all reasonable steps to ensure the pig or poultry does not feed on prohibited feed for pigs and poultry.

Maximum penalty—400 penalty units.

(3) A person (the ***relevant person***) must not supply prohibited feed for pigs and poultry to another person if the relevant person knows the other person intends that a particular person (whether or not the relevant person or other person) is to feed the material to a pig or poultry.

Maximum penalty—400 penalty units.

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(4) A person to whom subsection (1), (2) or (3) applies does not commit an offence against the subsection if—

(a) the person has a reasonable excuse; or

(b) both of the following apply—

(i) a regulation states that the subsection does not apply in a stated circumstance or other state of affairs (including, for example, if stated requirements are satisfied or stated attributes exist);

(ii) the circumstance or other state of affairs exists in relation to the person for the pig or poultry the subject of the offence.

(5) A person who feeds prohibited feed for pigs and poultry to a pig or poultry does not commit an offence against subsection (1), (2) or (3) if—

(a) the person—

(i) is, under section 46B, permitted by the chief executive to feed the material to a pig or poultry lawfully used for a scientific purpose; and

(ii) feeds the material to the ruminant, pig or poultry in the way permitted by the chief executive; or

(b) the feeding is authorised under another Act or a law of the Commonwealth.

Note—

For the effect of a biosecurity emergency order, see section 115.

(6) A person who feeds prohibited feed for pigs and poultry to a pig for the purpose of disease control or pest control does not commit an offence against subsection (1), (2) or (3) if—

(a) all of the following apply—

(i) the feeding is done by or carried out under the written direction of a veterinary surgeon;

(ii) the material is derived from a pig;

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(iii) the pig from which the material was derived was kept only at the designated place where the pig being fed is kept; or

(b) the person uses the material—

(i) in a poisoned bait for killing a feral pig; or

(ii) as a preliminary to baiting a feral pig to kill it, and the material is not poisoned.

46B Permission to feed restricted animal material or prohibited feed for pigs and poultry to particular animals

(1) This section empowers the chief executive to permit feeding of particular animals for section 46(5)(a)(i) or 46A(5)(a)(i).

(2) The chief executive may, in writing, permit a person to feed—

(a) restricted animal material to a ruminant lawfully used for a scientific purpose; or

(b) prohibited feed for pigs and poultry to a pig or poultry lawfully used for a scientific purpose.

(3) The chief executive may permit the feeding if the chief executive is satisfied on reasonable grounds the research or other use for a scientific purpose will be conducted under controls that ensure—

(a) any risks posed by the research or other use for a scientific purpose can be managed in a way that protects the health and safety of people and animals; and

(b) the person will know the location of, and have control of, the ruminant, pig or poultry at all times the research is being conducted.

47 Notifiable incidents

(1) This section applies to a person if—

(a) the person becomes aware that an incident has happened; and

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(b) the person believes that the incident is a notifiable incident, or ought reasonably to believe that the incident is a notifiable incident; and

(c) the person has no grounds to believe that an inspector has already been made aware of the happening of the incident.

(2) The person must, unless the person has a reasonable excuse—

(a) advise an inspector of the incident in accordance with the requirements stated in this section; and

(b) otherwise comply with the requirements of this section in relation to the incident.

Maximum penalty—1,000 penalty units.

(3) If practicable, the advice must be given to an inspector having administrative responsibility in the area where the incident happened.

(4) The advice must—

(a) be given without delay, whether in the approved form or in another way, including, for example, in person or by telephone, or by email or another electronic means; and

(b) state enough particulars to identify the incident, its nature and its location.

(5) The advice must be accompanied, or be followed as soon as practicable, by any documents that reasonably relate to the incident, including, for example, an analyst's report of analysis showing the results of testing.

(6) The person must not take any action reasonably likely to exacerbate, and must take any action reasonably likely to minimise, the biosecurity risk posed by any biosecurity matter or carrier the subject of the incident.

Example—

The person must as far as practicable keep an infected animal, carcass or animal product separate from animals, carcasses or animal products that are not infected.

(7) In this section—

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incident includes event.

notifiable incident means—

(a) a biosecurity event; or

(b) without limiting paragraph (a), the happening of any of the following—

(i) the appearance of blisters on the mouths or feet of designated animals;

(ii) an abnormally high mortality rate or morbidity rate in plants or in designated animals;

(iii) a sudden and unexplained fall in production relating to plants or designated animals;

(iv) the presence of a contaminant in a carrier in an amount more than the maximum acceptable level prescribed under a regulation for the carrier;

(v) the appearance of other symptoms or conditions prescribed under a regulation that may indicate the presence of biosecurity matter which may cause adverse effects on a biosecurity consideration.

Chapter 3 Matters relating to local governments

Part 1 Provisions about functions and obligations of local governments

48 Main function of local government

(1) The main function under this Act of each local government is to ensure that the following biosecurity matter (***invasive***

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biosecurity matter for the local government's area) are managed within the local government's area in compliance with this Act—

(a) prohibited matter mentioned in schedule 1, parts 3 and 4;

(b) prohibited matter taken to be included in schedule 1, parts 3 and 4 under a prohibited matter regulation or emergency prohibited matter declaration;

(c) restricted matter mentioned in schedule 2, part 2;

(d) restricted matter taken to be included in schedule 2, part 2 under a restricted matter regulation;

(e) an invasive animal or invasive plant, other than an animal or plant that is prohibited matter under paragraph (a) or (b) or restricted matter under paragraph (c) or (d), that—

(i) is provided for under a local law of the local government under subsection (4); and

(ii) in the opinion of the chief executive, satisfies the local invasive biosecurity matter criteria.

(2) For subsection (1)(e)(ii), the local invasive biosecurity matter criteria for an invasive animal or invasive plant are—

(a) the animal or plant is currently present in the local government's local government area; and

(b) there are reasonable grounds to believe that, if restrictions under this Act are not imposed on the invasive animal or invasive plant to reduce, control or contain it, the animal or plant may have an adverse effect on a biosecurity consideration.

(3) However, a local government is not responsible for managing invasive biosecurity matter in the local government area to the extent the matter is an invasive animal managed by an invasive animal board and its operational area is within the local government area.

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(4) Without limiting the Local Government Act, section 28(1) or the City of Brisbane Act, section 29, a local government's local law may provide for the management of invasive animals and invasive plants, whether or not they are prohibited matter or restricted matter, in its local government area.

49 When State and local government act in partnership

The chief executive and the chief executive officer of a local government may agree that the State and local government act in a coordinated way to respond to a biosecurity event in the local government's area associated with its area's invasive biosecurity matter.

Example—

The chief executive makes a biosecurity emergency order in response to a biosecurity event and the biosecurity emergency area for the biosecurity emergency order is in a local government's area. The biosecurity matter associated with the biosecurity event is prohibited matter that is invasive biosecurity matter for the local government's area. The role of a local government in managing the prohibited matter may consist only of providing authorised persons appointed by the local government to respond to the biosecurity event.

Note—

The State and a local government may enter into a government and industry agreement to respond to a biosecurity event.

50 Minister may direct local government to perform function or obligation

(1) This section applies if the Minister reasonably believes a local government is not performing any of its functions or obligations under this Act.

Example of a local government not performing its functions or obligations—

a local government not taking reasonable steps to manage invasive biosecurity matter for its local government area

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(2) The Minister may, by notice (***local government compliance notice***) given to the local government, direct it to perform the function or obligation.

(3) However, before giving the local government compliance notice, the Minister must consult with the local government and consider the local government's views about the performance of the function or obligation.

(4) The notice must state the following—

(a) the function or obligation the Minister believes the local government is not performing;

(b) what action the Minister requires the local government to take to perform the function or obligation;

(c) the day by which the stated action must be taken.

(5) The local government must comply with the notice.

51 Chief executive may act to perform local government's functions

(1) This section applies if a local government has been given a local government compliance notice and the chief executive is satisfied the local government has not achieved substantial compliance with the notice.

(2) This section also applies if a local government has been given a local government compliance notice and the chief executive and the local government agree that the local government can not achieve substantial compliance with the notice.

(3) The chief executive may by gazette notice—

(a) state any function or obligation mentioned in the notice that the local government has not complied with; and

(b) declare that, for a stated period, the function or obligation is given to the chief executive; and

(c) state that the chief executive proposes to perform the function or obligation; and

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(d) state what action the chief executive proposes to take to perform the function or obligation.

(4) The chief executive may perform the function or obligation, and take the stated action.

(5) The chief executive, in performing the function or obligation or taking the action, has the powers of the local government before the gazette notice was made in relation to the function, obligation or action.

(6) The costs reasonably incurred by the chief executive in performing or taking action for a function or obligation of a local government are a debt payable by the local government to the State.

52 Minister may ask for particular information from local government

(1) The Minister may, by notice given to a local government, ask the local government to give the Minister a written report about any function performed or power exercised, or required to be performed or exercised, by the local government under this Act.

Example—

a report on the outcomes of consultation for developing or amending a biosecurity plan

(2) The local government must comply with the request.

Part 2 Biosecurity plans for local government areas

53 Local governments to have biosecurity plan

(1) A local government must have a biosecurity plan for invasive biosecurity matter for its local government area.

(2) The plan may include provision for each of the following—

(a) achievable objectives under the plan;

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(b) strategies, activities and responsibilities for achieving the objectives;

(c) strategies to inform the local community about the content of the plan and achievement of its objectives;

(d) monitoring implementation of the plan and evaluating its effectiveness;

(e) other matters the local government considers appropriate for management of invasive biosecurity matter for its local government area.

54 Plan to be available for inspection

(1) Each local government must keep a copy of its biosecurity plan available for inspection, free of charge, by members of the public at the local government's public office.

(2) The plan may be made available in written or electronic form.

55 Local governments acting concurrently for biosecurity plan

(1) This part, in requiring each local government to have a biosecurity plan, does not stop 2 or more local governments from acting concurrently to propose and adopt the same biosecurity plan for each of the local governments or to subsequently amend the plan.

(2) Each local government whose biosecurity plan is identical with the biosecurity plan of another local government must implement the plan in its own local government area to the extent the plan relates to that area.

Part 3 Land Protection Fund

56 Continuation of Land Protection Fund

The Land Protection Fund (the ***fund***) established under the *Stock Route Management Act 2002* is continued in existence.

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57 Purpose and administration of fund

(1) The purpose of the fund is to record amounts received for, and paid from, the fund to provide for activities that help local governments manage invasive animals and invasive plants.

(2) Activities that help a local government manage invasive animals and invasive plants include, for example, the following—

(a) research about managing invasive animals or invasive plants in the local government's area;

(b) educational or training programs about invasive animals or invasive plants in the local government's area;

(c) the maintenance by an invasive animal board of any part of the barrier fence included in, or that benefits, the local government's area;

(d) taking action under a biosecurity program for invasive animals or invasive plants in the local government's area.

Example for paragraph (d)—

aerial spraying of plagues of locusts under a prevention and control program

(3) Accounts for the fund must be kept as part of the departmental accounts of the department.

(4) However, amounts received for the fund may be deposited in a departmental financial institution account of the department with other moneys of the department.

(5) Amounts received for the fund include the following—

(a) amounts made available by the chief executive for the fund;

(b) amounts given to the chief executive by another entity for this Act;

(c) the proceeds of the sale or hire of any buildings, equipment or machinery acquired by the Minister or chief executive in relation to a matter under this chapter or chapter 4;

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(d) the amount of any costs incurred and recovered by the chief executive in relation to a matter under chapter 4;

(e) the amount of any payment required by the Minister under section 60;

(f) other amounts received under this Act and prescribed under a regulation.

(6) In this section—

departmental accounts, of the department, means the accounts of the department established under the *Financial Accountability Act 2009*, section 69(1).

departmental financial institution accounts, of the department, means the accounts of the department established under the *Financial Accountability Act 2009*, section 83(1).

other moneys, of the department, means all moneys of the department other than amounts received for the fund.

58 Payments from fund

Amounts are payable from the fund for paying only the following—

(a) expenses incurred by the chief executive;

(b) amounts necessary for the operations of an invasive animal board;

(c) an amount authorised by the chief executive under this Act as payable from the fund;

(d) other amounts required or permitted by this Act to be paid out of the fund.

59 Consultation with local government about activities

Before paying an amount from the fund for services to be provided by the chief executive for activities that help a local government to manage invasive animals and invasive plants, the chief executive must consult with the local government

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and consider the local government's views about the suitability and priority of the activities.

60 Minister may require local government to make annual payment

(1) The Minister may, by notice, require a local government to pay an amount for a financial year to the chief executive for services provided or to be provided by the chief executive or an invasive animal board for activities that help the local government manage invasive animals and invasive plants in the local government's area.

(2) The amount must not be more than the maximum amount prescribed under a regulation for the local government.

(3) In recommending the maximum amount, the Minister must have regard to the nature and extent of the services provided or to be provided by the chief executive or an invasive animal board in the local government's area, including, for example—

(a) any of the following services—

(i) research about prevention and control techniques for invasive animals and invasive plants;

(ii) public education;

(iii) planning and mapping services;

(iv) training and technical advice for individuals and groups;

(v) strategic and preventative control of invasive animals and invasive plants; or

(b) whether land in the area may benefit from action taken by the chief executive or an invasive animal board, including, for example, action taken under a biosecurity program, a movement control order or a biosecurity emergency order or action to keep in good order any part of the barrier fence included in, or that benefits, the local government's area.

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(4) The notice must state the period in which the amount required under the notice must be paid.

(5) The local government must pay the amount to the chief executive in the stated period.

61 Minister must give local government report about activities

The Minister must give each local government required under section 60 to pay the chief executive an amount for a financial year a written report for the year on the outcomes of services provided under this Act by the chief executive for activities relevant to the local government's area.

Chapter 4 Invasive animal barrier fencing

Part 1 Invasive animal boards

Division 1 Establishment

62 What is an *invasive animal board* and what is its *operational area*

(1) An ***invasive animal board*** is an entity declared under a regulation to be an invasive animal board.

(2) The regulation must—

(a) name the board; and

(b) state the invasive animal to be managed by the board; and

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(c) state the part of the barrier fence for which the board is responsible; and

(d) state the number of directors of the board.

(3) The regulation may identify the area (the ***operational area***) in which the invasive animal board will carry out activities to manage the invasive animal.

63 Legal status

(1) An invasive animal board—

(a) is a body corporate; and

(b) has a seal; and

(c) may sue and be sued in its corporate name.

(2) An invasive animal board represents the State.

(3) Without limiting subsection (2), an invasive animal board has all the privileges and immunities of the State.

64 Application of other Acts

(1) An invasive animal board is a statutory body under—

(a) the *Financial Accountability Act 2009*; and

(b) the *Statutory Bodies Financial Arrangements Act 1982*.

(2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which an invasive animal board's powers under this Act are affected by that Act.

65 Board's function

(1) An invasive animal board's function is to keep the part of the barrier fence for which it is responsible (the ***fence part***) in good order, and to ensure it is maintained as an effective barrier against, depending on its form of construction in any particular place, the invasive animal the board is to manage.

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(2) Without limiting subsection (1), an invasive animal board's function includes—

(a) regularly inspecting the fence part; and

(b) repairing the fence part; and

(c) replacing damaged sections of the fence part that can not be repaired; and

(d) clearing obstructions from on or near the fence part to ensure the fence's integrity as a barrier.

(3) If an invasive animal board has an operational area for an invasive animal, the board also has the function of managing the animal in the operational area.

66 Board's powers

(1) An invasive animal board has the powers of an individual and may, for example, do any of the following—

(a) enter into contracts;

(b) acquire, hold, deal with and dispose of property;

(c) appoint and act through agents and attorneys;

(d) charge, and fix terms, for goods, services and information it supplies;

(e) employ staff and engage consultants;

(f) do anything else necessary or convenient to be done in performing its function.

(2) Without limiting subsection (1), an invasive animal board has the powers given to it under this Act.

67 Minister may give direction to board

(1) The Minister may give an invasive animal board a written direction about the performance of the board's function or the exercise of its powers if satisfied it is necessary to give the direction in the public interest.

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(2) The board must comply with the direction.

(3) Before giving the direction, the Minister must consult with the board.

(4) The Minister must publish in the gazette a copy of the direction within 21 days after the direction is given.

Division 2 Board directors

68 Control of board

The directors of an invasive animal board control the board.

69 Role of directors

(1) The directors of an invasive animal board are responsible for the way the board performs its function and exercises its powers.

(2) Without limiting subsection (1), it is the role of the directors of an invasive animal board to ensure the board performs its function in an appropriate, effective and efficient way.

70 Appointment of directors

(1) The directors of an invasive animal board are to be appointed by the Minister.

(2) A regulation may prescribe—

(a) the number of directors that must be appointed to an invasive animal board to represent a local government whose area includes the board's part of the barrier fence; and

(b) the minimum qualifications a person must have to be appointed as a director.

Example for paragraph (b)—

A regulation may require a person to have a legal or business qualification to be appointed to a board.

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71 Chairperson

(1) The chairperson of the board of directors is the director chosen as chairperson by the directors.

(2) If the chief executive is not notified of a chairperson chosen by the directors within 1 month after the first meeting of the board of directors, the chairperson is the director chosen by the chief executive.

(3) The chairperson holds office until the first meeting of the board of directors occurring at least 1 year after the director's selection as chairperson.

72 Disqualification for directorship

A person is not qualified to be, or to continue as, a director of an invasive animal board if the person—

(a) is an insolvent under administration; or

(b) is, or has been, convicted of—

(i) an indictable offence, whether on indictment or summarily; or

(ii) an offence against this Act.

73 Term of appointment

(1) Subject to subsections (2) and (3), a director of an invasive animal board is appointed for the term, of no more than 4 years, stated in the director's instrument of appointment.

(2) The director continues holding office after the director's term of office ends until the director's successor is appointed.

(3) If a person is appointed to fill a casual vacancy in the office of a director, the person is appointed only for the remainder of the director's term of office.

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74 Termination of appointment

The Minister may remove a person from office as a director of an invasive animal board if—

(a) the director ceases to be qualified to be a director or is absent from 3 consecutive meetings of the board without the board's leave and without reasonable excuse; or

(b) the Minister is satisfied the director—

(i) is incapable of performing the duties of a director because of physical or mental incapacity; or

(ii) performed the director's duties carelessly, incompetently or inefficiently; or

(iii) has committed misconduct of a kind that could justify dismissal from the public service if the director were a public service officer.

75 Vacation of office

The office of a director of an invasive animal board becomes vacant if the director—

(a) resigns by signed notice of resignation given to the board; or

(b) is removed from office under this part.

76 Disclosure of interests

(1) This section applies to a director of an invasive animal board if—

(a) the director has a direct or indirect financial or personal interest in a matter being considered, or about to be considered, by the board; and

(b) the interest could conflict with the proper performance of the director's duties about the consideration of the matter.

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(2) As soon as practicable after the relevant facts come to the director's knowledge, the director must disclose the nature of the interest to a meeting of the invasive animal board.

Maximum penalty—20 penalty units.

(3) The disclosure must be recorded in the board's minutes.

(4) Unless the board otherwise decides, the director must not—

(a) be present when the board considers the matter; or

(b) take part in a decision of the board on the matter.

Maximum penalty—20 penalty units.

(5) The director must not be present when the board is considering its decision under subsection (4).

Maximum penalty—20 penalty units.

(6) Another director who also has a direct or indirect financial or personal interest in the matter must not—

(a) be present when the board is considering its decision under subsection (4); or

(b) take part in making the decision.

Maximum penalty—20 penalty units.

(7) In this section—

financial or personal interest, for a person nominated by an entity for appointment as a director, does not include an interest the person has in common with members of the entity represented by the person.

77 Director to act in board's interest

A director of an invasive animal board must act in the best interests of the board.

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Division 3 Business and meetings

78 Conduct of business

Subject to this division, an invasive animal board may conduct its business, including its meetings, in the way it considers appropriate.

79 Times and places of meetings

(1) An invasive animal board must hold—

(a) its first meeting at the time and place decided by the chief executive; and

(b) at least 1 meeting a year.

(2) The chairperson of an invasive animal board—

(a) may call a board meeting at any time; and

(b) must call a meeting if asked by at least one-half of the directors comprising the board or, if the number is not a whole number, the next highest whole number of directors.

80 Quorum

A quorum for an invasive animal board is the number of directors equal to one-half of the number of directors of the board plus 1 or, if the number is not a whole number, the next highest whole number.

81 Presiding at meetings

(1) The chairperson of an invasive animal board must preside at all meetings at which the chairperson is present.

(2) If the chairperson is absent, the director chosen by the directors present must preside.

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82 Conduct of meetings

(1) A question at an invasive animal board meeting is decided by a majority of the votes of the directors of the board present and voting.

(2) Each director present has a vote on each question to be decided and, if the votes are equal, the chairperson has a casting vote.

(3) A director present at the meeting who abstains from voting is taken to have voted for the negative.

(4) An invasive animal board may allow its directors to take part in its meetings by using any technology that reasonably allows directors to hear and take part in discussions as they happen.

Example of use of technology—

teleconferencing

(5) A director who takes part in an invasive animal board meeting under subsection (4) is taken to be present at the meeting.

(6) A resolution is validly made by an invasive animal board, even if it is not passed at a board meeting, if—

(a) a majority of the board's directors gives written agreement to the resolution; and

(b) notice of the resolution is given under procedures approved by the board.

83 Minutes

An invasive animal board must keep—

(a) minutes of its proceedings; and

(b) a record of its resolutions.

84 Fees and allowances

A director of an invasive animal board is entitled to be paid the fees and allowances approved by the Minister.

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Division 4 Financial matters

85 Estimate of board's operational costs

(1) An invasive animal board must, for each financial year, prepare and give to the Minister a written estimate of its operational costs for the year.

(2) The estimate must be given to the Minister at least 2 months before the start of the financial year to which the estimate relates.

(3) The estimate must be accompanied by a written statement stating—

(a) details, including a works program, for the items to which the costs relate; and

(b) an amount for each item.

86 Approval for carrying out board's operations

(1) An invasive animal board may carry out a works program or do other things involving expenditure by it in a financial year only if the works or other things have been approved by the Minister for the financial year.

Examples of other things—

acquisition of land, machinery, equipment or materials

(2) In deciding whether to approve the works program or other things, the Minister must have regard to—

(a) the board's function; and

(b) the expenditure involved in carrying out the works program or doing the other things.

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Division 5 Miscellaneous

87 Delegation

An invasive animal board may delegate its function or powers to an appropriately qualified person.

88 Annual report

(1) As soon as practicable after the end of each financial year, an invasive animal board must prepare and give to the Minister a written report about the board's operation during the year.

(2) As soon as practicable after receiving the report, the Minister must table a copy of it in the Legislative Assembly.

Part 2 Barrier fences

Division 1 Identification of the barrier fence

89 What is the *barrier fence*

(1) The ***barrier fence*** is the fence made up of the sections of fencing built along the following lines—

(a) the line shown as the 'wild dog barrier fence' on the barrier fence map;

(b) the lines shown as the 'wild dog check fence' on the barrier fence map;

(c) the line shown as the 'rabbit fence' on the barrier fence map.

(2) A ***barrier fence part*** is a section of fencing of the barrier fence.

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90 Who is the *building authority* for a barrier fence part

The ***building authority*** for a barrier fence part is—

(a) if a regulation states an invasive animal board is responsible for a barrier fence part—the board; or

(b) if a regulation states 1 or more local governments are responsible for a barrier fence part—the local government or local governments jointly; or

(c) otherwise—the chief executive.

91 Barrier fence map and amendment of map

(1) The barrier fence is shown on the electronic map called 'Barrier Fence Map for Queensland' (the ***barrier fence map***) held by the department, as amended from time to time under this section.

(2) The chief executive may amend the barrier fence map to more accurately show the location of the barrier fence or of any adjustment of the fence.

(3) Before amending the barrier fence map under subsection (2), the chief executive must consult with—

(a) the building authority, other than the chief executive, for the barrier fence part affected by the amendment; and

(b) any owner of land affected by the amendment.

(4) If the chief executive decides to amend the barrier fence map, the chief executive must create a new version of the map that includes the amendment and notify the following that the amendment has been made—

(a) the invasive animal board for the barrier fence part affected by the amendment;

(b) the local government—

(i) for the barrier fence part affected by the amendment; or

(ii) for the area within which the barrier fence part affected by the amendment is located, if there is no

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local government as mentioned in subparagraph (i);

(c) any owner of land affected by the amendment.

(5) The chief executive may, without charge, publish the barrier fence map on the department's website or make the map available for inspection at the department's head office during business hours.

Division 2 Maintaining barrier fences

92 Building gates and grids in barrier fence

(1) This section applies if a barrier fence part—

(a) intersects the land of a person; and

(b) unreasonably hinders movement by a person or by designated animals from a part of the land to another part.

(2) The building authority for the barrier fence part must build and pay for a gate or grid in the fence to allow the movement.

93 Maintaining barrier fence

For keeping a barrier fence part in good order, the building authority for the barrier fence part may—

(a) clear the fence line of vegetation or any other obstruction to a distance of no more than 20m either side of the fence; and

(b) enter onto a place to clear the fence line under paragraph (a), or to inspect the fence or repair or otherwise maintain it.

94 Power to enter a place

(1) This section applies if the building authority for a barrier fence part needs to enter a place to—

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(a) inspect or maintain the fence, including to inspect or maintain a gate or grid in the fence; or

(b) clear the fence line.

(2) The building authority must, before entering the place—

(a) obtain the occupier's consent to the entry; or

(b) give the occupier notice of—

(i) the intended entry; and

(ii) the purpose of the entry; and

(iii) the proposed dates and times of entry.

(3) If the building authority is satisfied it is impracticable to give the notice under subsection (2)(b), it is sufficient compliance with the subsection if the building authority—

(a) publishes the notice in a newspaper circulating generally in the area in which the place is situated; or

(b) places the notice conspicuously on the place.

(4) Notice under this section must be given at least 7 days before the intended entry.

(5) However, if the building authority considers it necessary to enter the land because of urgent circumstances, the building authority must give the occupier only the notice that is reasonably practicable in the circumstances.

95 Agreement to make opening in barrier fence

(1) The building authority for a barrier fence part may enter into an agreement with another person about making an opening in the fence for a particular purpose and period.

Examples of purpose—

- to build a road or lay a gas pipeline through the fence
- to pass through the fence to gain access to land for mineral exploration

(2) The agreement must be subject to conditions that, as far as reasonably practicable, ensure the movement of a relevant

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animal from 1 side of the fence to the other is prevented while the fence is opened.

(3) In this section—

relevant animal means an animal of the type for whose movement the fence is intended to be a barrier.

96 Directing restoration of barrier fence

(1) This section applies if the building authority for a barrier fence part reasonably believes a person has unlawfully damaged, or made an opening in, the fence.

(2) The building authority may, by notice given to the person, require the person, by the reasonable date stated in the notice, to restore the fence to the condition it was in before the fence was damaged or opened.

(3) The notice must be accompanied by, or include, an information notice about the building authority's decision to make the requirement.

(4) If the person does not comply with the notice, the building authority may—

(a) carry out the restoration; and

(b) recover from the person the building authority's reasonable costs of carrying out the restoration.

Division 3 Offences about barrier fence

97 Damaging, or making openings in, barrier fence

A person must not, without reasonable excuse—

(a) damage a barrier fence part; or

(b) make an opening in the barrier fence, other than under an agreement under section 95.

Maximum penalty—50 penalty units.

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98 Obstructing inspection or maintenance of barrier fence

A person must not, without reasonable excuse, build a structure, excavate land or carry out another activity near a barrier fence part if the structure, excavation or carrying out of the activity is likely to obstruct the inspection or maintenance of the fence.

Maximum penalty—50 penalty units.

99 Closing gates

A person must close a gate in the barrier fence immediately after using the gate, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

Part 3 Barrier fence employees

100 Appointment of barrier fence employees

(1) The building authority for a barrier fence part may, by instrument in writing, appoint a person employed or engaged by the authority to exercise powers under this Act in relation to the barrier fence part.

(2) However, the building authority may appoint the person only if it is satisfied the person is appropriately qualified.

(3) A person appointed under this section is a ***barrier fence employee***.

101 Powers of barrier fence employees generally

(1) A barrier fence employee has the powers given in the employee's instrument of appointment.

(2) In exercising the powers, the barrier fence employee is subject to the directions of the building authority that appointed the employee.

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(3) However, a barrier fence employee may exercise a power given to the employee in relation to a person only for—

(a) entry on the person's land to perform work for the building authority necessary for the proper maintenance of the barrier fence part for which the authority is responsible; and

(b) properly maintaining the barrier fence part located on the person's land; and

(c) giving the person a notice to remedy damage, for which the person is responsible, to the barrier fence part.

Note—

Chapter 10, part 5 also applies to barrier fence employees.

102 Incidental entry to ask for access

For the purpose of asking the occupier of a place for consent to enter the place on behalf of the building authority for a barrier fence part, a barrier fence employee of the authority may, without the occupier's consent—

(a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or

(b) enter part of the place the employee reasonably considers members of the public ordinarily are allowed to enter when they wish to contact an occupier of the place.

103 Matters employee must tell occupier

Before asking the occupier of a place for consent to enter a place on behalf of the building authority for a barrier fence part, a barrier fence employee of the authority must give a reasonable explanation to the occupier—

(a) about the purpose of the entry, including the powers intended to be exercised; and

(b) that the occupier is not required to consent; and

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(c) that the consent may be given subject to conditions and may be withdrawn at any time.

Chapter 5 Codes of practice and guidelines

Part 1 Codes of practice

104 Making codes of practice

(1) A regulation may make codes of practice about matters relating to biosecurity.

(2) Without limiting subsection (1), a code of practice may be made about any of the following—

(a) ways of minimising biosecurity risks associated with—

(i) agricultural activities; or

(ii) animal husbandry activities; or

(iii) land use practices that may spread invasive animals and invasive plants; or

(iv) dealing with carriers, including, for example, appropriate ways to treat infected or potentially infected carriers; or

(v) manufacturing processes for animal feed;

Example of animal feed—

feed for ruminants

(b) managing invasive animals and invasive plants and their impacts;

(c) implementing best practice in maintaining hygiene and standards of cleanliness of plant nurseries and places where designated animals are kept to protect the plants

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and designated animals from the likelihood of disease and to prevent the spread of disease;

(d) ways to prevent, control and stop the spread of biosecurity matter by a carrier, including—

(i) procedures for disinfecting, cleaning and treating carriers; and

(ii) isolation of carriers introduced into the State from another State or moved from a part of the State to another part of the State; and

(iii) programs for disease eradication or vaccination; and

(iv) management of cattle ticks; and

(v) management of a thing that may cause or tend to cause the spread of disease;

(e) the carrying out of any process, or the use of particular technologies, in an industry or another activity;

(f) requirements for the content and labelling of animal feed, fertilisers and other agricultural inputs.

Example of an agricultural input that may require labelling—

a bag of seed for sowing that may contain weed seeds

105 Consultation about codes of practice

(1) Before the making of a code of practice under this part is recommended to the Governor in Council, the chief executive must consult with relevant entities.

(2) Subsection (1) does not apply to the adopted provisions of a code of practice.

(3) A failure to consult under subsection (1) does not affect the validity of the code of practice.

(4) In this section—

relevant entities means local governments and other entities the chief executive considers appropriate, including entities from any of the following groups if the chief executive

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considers the entities to have an interest in matters relating to biosecurity—

(a) community groups;

(b) professional and industry associations;

(c) educational institutions;

(d) natural resource management bodies.

106 Tabling and inspection of documents adopted in codes of practice

(1) This section applies if—

(a) a regulation that makes a code of practice adopts, applies or incorporates the whole or a stated part of another document (the ***adopted provisions***); and

(b) the adopted provisions are not part of, or attached to, the regulation.

(2) The Minister must, within 14 sitting days after the regulation is notified, table a copy of the adopted provisions in the Legislative Assembly.

(3) If the adopted provisions are amended, the Minister must, within 14 sitting days after the amendment is made, table a copy of the provisions as amended in the Legislative Assembly.

(4) The chief executive must keep a copy of the adopted provisions, as in force from time to time, available for inspection, free of charge, by members of the public at—

(a) the department's head office; and

(b) other places the chief executive considers appropriate.

(5) The adopted provisions may be made available in written or electronic form.

(6) A failure to comply with subsection (2), (3) or (4) does not invalidate or otherwise affect the regulation.

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Part 2 Guidelines

107 Chief executive may make guidelines

(1) The chief executive may make guidelines to provide guidance to persons about—

(a) matters relating to the administration of this Act; and

(b) ways of discharging the general biosecurity obligation; and

(c) complying with other requirements imposed under this Act.

(2) Without limiting subsection (1), a guideline may be about the following matters—

(a) the operation of provisions of this Act about monitoring and enforcement;

(b) ways of complying with requirements imposed under this Act in relation to restricted matter, including, for example, the following—

(i) steps an occupier of land may take to manage invasive plants and their impact on the land and adjoining land;

(ii) ways to avoid moving fire ants in or on soil;

(iii) ways to humanely kill, and appropriately dispose of, noxious fish;

(c) on-farm procedures for keeping and caring for horses;

(d) raising designated animals on land for the domestic needs of the occupants of the land.

(3) The chief executive may make a guideline by adopting another entity's guideline with or without changes.

(4) Before making a guideline, the chief executive must take reasonable steps to allow entities the chief executive considers may have an interest in the proposed guideline to give the chief executive written submissions about it.

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Example—

The chief executive might publish a notice in a newspaper circulating in the area in which interested entities reside seeking submissions about a proposed guideline.

(5) A failure to allow the entities to give the chief executive written submissions about the proposed guideline does not affect the validity of it.

108 Availability of guidelines

(1) The chief executive must keep a copy of each guideline, as in force from time to time, available for inspection, free of charge, by local governments and members of the public at—

(a) the department's head office; and

(b) other places the chief executive considers appropriate.

(2) Also, the chief executive must publish each guideline, as in force from time to time, on the department's website.

109 Obligation to have regard to guidelines

(1) The contents of a guideline may be taken into account when considering whether a person has or has not discharged the person's general biosecurity obligation or otherwise complied with a provision of this Act.

(2) However, it must not be presumed that a person who has failed to follow a guideline has breached the person's general biosecurity obligation or otherwise failed to comply with a provision of this Act.

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Chapter 6 Managing biosecurity emergencies and risks

Part 1 Biosecurity emergencies

Division 1 Preliminary

110 Relationship to other Acts

(1) Nothing in this part prevents a person from declaring a disaster situation or another emergency under another Act (***another declaration***).

(2) However, the existence of another declaration does not prevent the declaration of a biosecurity emergency under this part.

Examples of other Acts—

- *Disaster Management Act 2003*
- *Public Health Act 2005*
- *Public Safety Preservation Act 1986*

(3) In this section—

disaster situation means a disaster situation declared under the *Disaster Management Act 2003*.

111 Other Acts not affected

This part is in addition to, and does not limit—

(a) the *Disaster Management Act 2003*; or

(b) the *Public Health Act 2005*, chapter 8; or

(c) the *Public Safety Preservation Act 1986*, part 3.

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112 Powers under this part and powers under other Acts

The powers under this part are in addition to and do not limit the powers a person has under another provision of this Act or another Act.

Examples of powers a person may have under another provision of this Act or another Act—

- the chief executive's power to make a movement control order under part 2
- a police officer's general power of entry under the *Police Powers and Responsibilities Act 2000*, section 19

Division 2 Declaring a biosecurity emergency

113 Chief executive may make biosecurity emergency order

(1) The chief executive may, by notice signed by the chief executive and published on the department's website, make an order (a ***biosecurity emergency order***) for responding to a biosecurity event.

Examples—

1 A biosecurity emergency order might be addressed at something that is currently happening. Accordingly, a biosecurity emergency order might be made because there is in progress an outbreak in horses of equine influenza that has been positively diagnosed on a number of properties in the biosecurity emergency area.

2 A biosecurity emergency order might be addressed at something that may happen. Accordingly, a biosecurity emergency order might be made because a significant number of chickens have been found dead on a poultry farm in the biosecurity emergency area. The deaths could be the result of heat exhaustion. However, tests being urgently undertaken have not yet ruled out the possibility that the deaths have been caused by biosecurity matter, for example avian influenza.

(2) As soon as practicable after making a biosecurity emergency order, the chief executive must—

(a) publish in the gazette a notice of the making of the order, the order's subject matter generally and the places where a copy of the order may be obtained; and

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(b) take all reasonable steps to ensure that persons likely to be directly affected by the order are made aware of the making of the order, including, for example, by some or all of the following—

(i) advertising in newspapers, on radio and on television;

(ii) electronically using emails and text messages;

Example—

SMS messaging in the biosecurity emergency area

(iii) automated telephoning.

(3) A biosecurity emergency order must be primarily directed at taking emergency action to isolate the biosecurity emergency area identified in the order, to stop the spread of any biosecurity matter associated with the biosecurity event and, if practicable, to eradicate the biosecurity matter.

(4) The chief executive may make a biosecurity emergency order only if the chief executive is satisfied on reasonable grounds, having regard to the seriousness or potential seriousness of the biosecurity event and the extent of its impact or likely impact, that an emergency response as provided for in the order is necessary.

Examples—

1 The chief executive may decide that a biosecurity emergency order is necessary to mitigate the adverse effects of a biosecurity event, including limiting its area of impact.

2 The chief executive may decide a biosecurity emergency order is necessary to ensure that a biosecurity event does not take place at all.

(5) However, before making a biosecurity emergency order, the chief executive must consult with the Minister and, if the biosecurity event has or is likely to have a significant impact on human health, must also consult with the chief health officer.

(6) If it has not been practicable to consult with the Minister or the chief health officer under subsection (5), the chief

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executive must consult as soon as practicable after the making of the biosecurity emergency order.

(7) A biosecurity emergency order is not invalid only because of a failure of the chief executive to comply with subsection (2), (5) or (6).

(8) To remove any doubt, it is declared that subsections (2) to (6) also apply for the amendment or revocation of a biosecurity emergency order, to the greatest practicable extent.

114 Matters for inclusion in biosecurity emergency order

(1) A biosecurity emergency order must include provisions that state—

(a) the nature and apparent extent of the biosecurity emergency the subject of the order; and

(b) the area to which the order primarily relates (the ***biosecurity emergency area*** for the biosecurity emergency order); and

(c) the duties and obligations imposed on—

(i) occupiers of any place within the biosecurity emergency area or a part of the area; and

(ii) other persons in or in the vicinity of the biosecurity emergency area or a part of the area; and

(d) when the order expires if it is not sooner revoked; and

(e) any conditions relating to the conduct of the response to the biosecurity emergency.

(2) Without limiting subsection (1), a biosecurity emergency order may include any of the following—

(a) a requirement for a person to publish warnings, in a form approved by the chief executive, that particular biosecurity matter or a carrier has had, is having or may have a significant adverse effect on a biosecurity consideration;

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(b) a prohibition on dealing with biosecurity matter or a carrier;

(c) a prohibition or restriction on the movement of biosecurity matter or of a carrier—

(i) into the State; or

(ii) into or out of the biosecurity emergency area; or

(iii) into an area adjacent to the biosecurity emergency area, whether or not the movement is out of the biosecurity emergency area; or

(iv) out of an area adjacent to the biosecurity emergency area, whether or not the movement is into the biosecurity emergency area; or

(v) within the biosecurity emergency area;

(d) conditions that must be complied with for movement of a type mentioned in paragraph (c);

(e) requirements for the completion of a movement of a type mentioned in paragraph (c) if the movement is already in progress when the order is made;

Example—

The biosecurity emergency order might require persons to stay where they are, to finish a journey or to return home.

(f) actions required to be taken by a person that are reasonably necessary or desirable to prevent the introduction, establishment or spread of biosecurity matter the subject of the order or to otherwise control or eradicate the biosecurity matter;

(g) requirements for a person (the ***relevant person***), including, for example, an owner of land within the biosecurity emergency area or a person who is in possession or control of a carrier within the biosecurity emergency area—

(i) to treat or destroy biosecurity matter (including biosecurity matter in water) or a carrier; or

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(ii) to allow any treatment, destruction, disposal, transport, decontamination or vaccination required under the order to be performed by, or under the direction of, an inspector and at the expense of the relevant person; or

(iii) to make a record about the movement of biosecurity matter or a carrier and keep the record for the period stated in the order;

(h) a direction that biosecurity matter or a carrier that has been consigned to another person, distributed to another person for sale or sold to another person be recalled in the way, and within the period, stated in the order;

(i) requirements for notifying an inspector about the presence of particular biosecurity matter;

(j) a direction that biosecurity matter or a carrier intended to be used for human or animal consumption or plant production be impounded, isolated or destroyed or otherwise disposed of in the way stated in the order;

(k) an absolute prohibition on the carrying out of an activity in relation to biosecurity matter or a carrier;

(l) a prohibition on the carrying out of an activity in relation to biosecurity matter or a carrier other than in compliance with conditions stated in the order;

(m) requirements for, and conditions applying to, the taking and analysis of samples of biosecurity matter or of a carrier;

(n) methods that must be followed for analysis of samples of biosecurity matter or of a carrier, required to be taken and analysed under the order.

(3) Also, a biosecurity emergency order may—

(a) establish checkpoints (***biosecurity emergency checkpoints***) within or near the biosecurity emergency area for the order; and

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(b) include objective criteria to apply for the stopping and checking of vehicles at the biosecurity emergency checkpoints.

(4) Without limiting the ways in which a biosecurity emergency area may be identified, the area may be identified by reference to any of the following—

(a) an area outlined on a map;

(b) coordinates located using global positioning systems;

(c) real property descriptions;

(d) local government area boundaries or boundaries of divisions within a local government's area;

(e) electoral boundaries applying for State or Commonwealth elections;

(f) geographical features, including, for example, roads and rivers.

115 Effect and duration of biosecurity emergency order

(1) A biosecurity emergency order has effect from when it is made, or from a later time provided for in the order.

(2) The chief executive must revoke a biosecurity emergency order if satisfied the biosecurity event to which the order relates is no longer having, or will not have, a significant adverse effect on a biosecurity consideration.

(3) Unless a biosecurity emergency order is sooner revoked under subsection (2), the order expires on—

(a) the day that is 42 days after the order begins to have effect; or

(b) an earlier day stated in the order for that purpose.

(4) Without limiting the chief executive's power to revoke a biosecurity emergency order, a movement control order may revoke a biosecurity emergency order.

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(5) If any of the following are inconsistent with a biosecurity emergency order, the order prevails to the extent of the inconsistency, while the order is in force—

(a) another provision of this Act or a regulation under this Act;

Example for paragraph (a)—

A biosecurity emergency order prohibiting a person from dealing with biosecurity matter that is restricted animal material may stop a person from feeding the material to a ruminant even if the ruminant were to be fed the material in a way mentioned in section 46(5).

(b) biosecurity zone regulatory provisions;

(c) a movement control order;

(d) a code of practice.

(6) A permit or other authorisation given under an Act, other than a permit or authorisation given for the purpose of responding to a biosecurity event, is of no effect while a biosecurity emergency order is in force, to the extent it is inconsistent with the biosecurity emergency order.

Example for subsection (6)—

A permit to travel designated animals along a stock route given under legislation relating to the control and management of stock routes would not be effective to authorise travel that is prohibited under a biosecurity emergency order while the order is in force.

Division 3 Enforcement of biosecurity emergency order

116 Compliance with biosecurity emergency order

(1) A person to whom a biosecurity emergency order applies must comply with the order.

Maximum penalty—2,000 penalty units or 2 years imprisonment.

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(2) A person does not commit an offence against subsection (1) if the person—

(a) did not know, and ought not reasonably to have known, of the existence of the order; or

(b) has a reasonable excuse for not complying with the order.

117 Power to stop vehicles

(1) An inspector who is also a police officer, or an authorised transport officer, may require the person in control of a vehicle to stop the vehicle at a biosecurity emergency checkpoint, having regard to the objective criteria applying for the stopping and checking of vehicles at the checkpoint.

(2) An inspector who is also a police officer may require the person in control of a vehicle to stop the vehicle other than at a biosecurity emergency checkpoint if the inspector suspects on reasonable grounds that—

(a) the vehicle may be being moved in contravention of a biosecurity emergency order; or

(b) the vehicle may be being used to carry biosecurity matter or a carrier in contravention of a biosecurity emergency order.

(3) A requirement may be made under subsection (1) or (2) in a way prescribed under a regulation.

Example—

A regulation might make provision for the display at a biosecurity emergency checkpoint or other stopping point of signs that can be easily read and understood by the person in control of a vehicle.

(4) A person must comply with a requirement under subsection (1) or (2) unless the person has a reasonable excuse.

Maximum penalty—

(a) for a failure to stop a vehicle at a biosecurity emergency checkpoint—500 penalty units; or

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(b) for a failure to stop a vehicle other than at a biosecurity emergency checkpoint—100 penalty units.

(5) A regulation may impose restrictions on the stopping of vehicles by authorised transport officers.

118 Inspection of stopped vehicle

(1) This section applies to a vehicle that has been stopped under this division by—

(a) an inspector who is also a police officer; or

(b) an authorised transport officer.

(2) An inspector, or an authorised person acting under the direction of an inspector, may inspect the vehicle to the extent necessary to ensure the vehicle is not carrying biosecurity matter or a carrier in contravention of the biosecurity emergency order.

(3) Also, the inspector or authorised person acting under the direction of an inspector may—

(a) take reasonable steps, including by giving directions to any person, to restrict biosecurity matter or a carrier to within an isolated area; or

(b) give a direction to a person to do any of the following—

(i) stay within an isolated area identified by the inspector or authorised person, or at another stated place, as directed by the inspector or authorised person;

(ii) take biosecurity matter or a carrier to a stated place;

(iii) answer a question, or produce a biosecurity emergency order permit, if giving the direction to answer the question or produce the permit is reasonably necessary to help the inspector or authorised person to assess whether the biosecurity emergency order is being effectively enforced and whether any further emergency action needs to be

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taken in relation to the biosecurity emergency the subject of the order;

(iv) move, or not move, a vehicle, biosecurity matter or a carrier, into, out of, within or around a stated place.

(4) A person to whom a direction is given under subsection (3) must comply with the direction unless the person has a reasonable excuse.

Maximum penalty—1,000 penalty units or 1 year's imprisonment.

(5) Unless an authorised officer otherwise directs, a person must not move the vehicle from where it was stopped until an inspector, or an authorised person acting under the direction of an inspector, has—

(a) inspected the vehicle as provided for in subsection (2); and

(b) given approval for the vehicle to leave the place where it was stopped.

Maximum penalty—1,000 penalty units or 1 year's imprisonment.

(6) An authorised officer is not stopped from exercising a non-emergency power in relation to a vehicle, or any person or thing in or on a vehicle, only because the vehicle was stopped under this division.

Note—

A police officer who is an inspector only for the purposes of provisions of this part would not be able to exercise non-emergency powers.

(7) For this section, it is not necessary for an authorised person to be acting under the direct supervision of an inspector in order for the person to be acting under the direction of the inspector.

(8) In this section—

non-emergency power means a power an authorised officer has under this Act other than under this part.

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119 Additional powers of inspector for place within a biosecurity emergency area

(1) Without limiting the powers of an inspector otherwise provided for in this Act, an inspector, or an authorised person acting under the direction of an inspector, may, in relation to any place within a biosecurity emergency area for a biosecurity emergency order, and to the extent reasonably necessary for managing the biosecurity emergency the subject of the order, do any of the following—

(a) enter and re-enter the place with or without consent;

(b) if the place is private property, inspect any vehicle at the place;

(c) establish an area on or over the place to isolate biosecurity matter or a carrier;

(d) give a direction restricting a person, biosecurity matter or a carrier to within an isolated area established under paragraph (c), or direct a person to stay at or in another stated place;

(e) direct a person to move biosecurity matter or a carrier from the place to another place;

(f) direct a person at the place to answer questions about the place or anything that has happened at the place;

(g) demolish, or direct a person at the place to demolish, any structure or other property at the place, including, for example, an outbuilding, cage, pen and yard;

(h) clean or disinfect, or direct a person at the place to clean or disinfect, the place or any structure or thing at the place;

(i) destroy, dispose of, vaccinate or treat, or direct a person at the place to destroy, dispose of, vaccinate or treat, biosecurity matter or a carrier at the place;

(j) direct the movement of a person, biosecurity matter, a carrier or a vehicle into, out of, within or around the place;

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(k) remove biosecurity matter or a carrier from the place;

(l) make, or direct a person at the place to make, equipment at the place inoperable;

Example—

dismantle the equipment or take away a component of the equipment

(m) direct the occupier of the place to give the inspector or authorised person, or another authorised person, any information or document;

(n) take any other action reasonably necessary for managing the biosecurity emergency.

(2) Subsection (1) does not authorise the entry of a residence.

(3) An inspector or authorised person may exercise a power under subsection (1) only to the extent reasonably necessary for, and only for the purposes of, fulfilling the purpose and ensuring the effectiveness of the biosecurity emergency order.

(4) Subject to subsection (3), an inspector or authorised person may exercise a power under subsection (1) with the help, and using the force, that is necessary and reasonable in the circumstances.

(5) A person to whom a direction is given under subsection (1) must comply with the direction unless the person has a reasonable excuse.

Maximum penalty—1,000 penalty units or 1 year's imprisonment.

(6) For this section, a place is private property if it is not a place—

(a) that is open to, or used by, the public; or

(b) that the public is entitled to use.

(7) A structure or other property may be demolished, or be directed to be demolished, under subsection (1)(g) only with the written approval of the chief executive.

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(8) This section applies to an inspector who is also a police officer, and where appointment as an inspector is made by the chief executive under chapter 10, part 1, division 3, for the purposes of a biosecurity emergency order, only to the extent provided for in the notice providing for the appointment.

120 Requirement to answer question or give information

(1) It is a reasonable excuse for an individual to fail to answer a question or give information or a document, as directed by an inspector under this division, on the basis that complying with the direction might tend to incriminate the individual or make the individual liable to a penalty.

Note—

This section refers only to an individual on the basis that the privilege to which the section refers applies only to individuals.

(2) However, it is not a reasonable excuse for an individual to fail to give a required document, as directed by an inspector under this division, on the basis that complying with the direction might tend to incriminate the individual or make the individual liable to a penalty.

Note—

This section refers only to an individual on the basis that the privilege to which the section refers applies only to individuals.

(3) Subsections (4) and (5) apply in relation to any of the following (***primary evidence***)—

(a) any required document for an individual produced or given by an individual to an inspector under this part in response to a direction given by an inspector under this part;

(b) the fact of the production or giving as mentioned in paragraph (a).

(4) The following is not admissible in evidence against an individual in any civil or criminal proceeding—

(a) primary evidence;

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(b) any document, information or other thing obtained as a direct or indirect result of primary evidence (***derived evidence***).

(5) Subsection (4) does not prevent primary evidence or derived evidence being admitted in evidence in criminal proceedings about the falsity or misleading nature of the primary evidence.

(6) In this section—

inspector includes an authorised person acting under the direction of an inspector.

required document, for an individual, means a document that has been issued to the person, or that the individual is required to keep, under this Act.

Division 4 Biosecurity emergency order permits

121 Biosecurity emergency order permit

(1) This section applies to a person who is subject to the operation of a biosecurity emergency order.

(2) The person may apply to an inspector for a permit (a ***biosecurity emergency order permit***) authorising the person to perform an activity, or not to perform an activity, other than in compliance with the biosecurity emergency order.

(3) The inspector may grant the biosecurity emergency order permit only if the inspector is satisfied in the circumstances that granting the permit—

(a) will not exacerbate the adverse effects or the possible adverse effects of the biosecurity emergency the subject of the biosecurity emergency order; and

(b) will not otherwise be detrimental to the effectiveness of the biosecurity emergency order.

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Example of circumstance in which a permit might be granted—

A person who has taken appropriate measures to clean or disinfect machinery may be granted a biosecurity emergency order permit to move the machinery to another place within, or outside, the biosecurity emergency area for the biosecurity emergency order.

(4) A biosecurity emergency order permit may be granted on conditions the inspector considers necessary to ensure the matters stated in subsection (3).

(5) A person who does not comply with a biosecurity emergency order does not commit the offence of failing to comply with the order if the noncompliance is authorised by a biosecurity emergency order permit.

(6) A biosecurity emergency order permit may authorise a person to perform or not to perform—

(a) a stated activity; or

(b) activities of a stated description.

(7) An inspector may at any time, by notice given to the holder of a biosecurity emergency order permit, to preserve the intended purpose and effect of the biosecurity emergency order—

(a) change the conditions of the permit; or

(b) cancel the permit.

(8) An inspector who refuses to grant a biosecurity emergency order permit to a person, grants a biosecurity emergency order permit to a person on conditions, amends the conditions of a person's biosecurity emergency order permit or cancels a person's biosecurity emergency order permit must give the person an information notice for the decision to refuse to grant, grant on conditions, amend or cancel.

(9) This section does not apply to an inspector who is also a police officer.

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122 Offences relating to biosecurity emergency order permits

(1) A person who holds a biosecurity emergency order permit must comply with the conditions of the permit unless the person has a reasonable excuse.

Maximum penalty—1,000 penalty units or 1 year's imprisonment.

(2) A person who holds a biosecurity emergency order permit must, while acting, or purportedly acting, under the authority of the permit, carry the permit with the person unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

(3) A person who holds a biosecurity emergency order permit must, if asked to do so by an authorised officer, and unless the person has a reasonable excuse, produce it to the authorised officer for the authorised officer's inspection—

(a) if the person is at the time of the request acting, or purportedly acting, under the authority of the permit—immediately; or

(b) otherwise—within the shortest practicable time after the request is made.

Maximum penalty—100 penalty units.

Division 5 Reports about biosecurity emergencies

123 Tabling of report

(1) The Minister must table in the Legislative Assembly a report about a biosecurity emergency the subject of a biosecurity emergency order within 6 months after the biosecurity emergency ends.

(2) The report about the biosecurity emergency must state the following—

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(a) the subject matter, nature and extent of the biosecurity emergency;

(b) when and why the biosecurity emergency order was made, when it took effect and when it expired or was revoked;

(c) the biosecurity emergency area for the biosecurity emergency order;

(d) the duties and obligations, for the movement of biosecurity matter or carriers, imposed on—

(i) occupiers of any place within the biosecurity emergency area or a part of the area; and

(ii) other persons in or in the vicinity of the biosecurity emergency area or a part of the area;

(e) any conditions relating to the conduct of the response to the biosecurity emergency;

(f) any other matter the Minister considers appropriate.

Part 2 Movement control orders

124 Chief executive may make movement control order

(1) The chief executive may, by notice signed by the chief executive and published on the department's website, make an order (a ***movement control order***) for managing, reducing or eradicating stated biosecurity matter (***controlled biosecurity matter*** for the movement control order) by prohibiting or restricting the movement of biosecurity matter, including controlled biosecurity matter, or of a carrier.

(2) A movement control order may be directed at managing, reducing or eradicating controlled biosecurity matter over a limited period rather than over an extended or indefinite period.

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Examples—

A movement control order may be directed at putting in place measures that are to apply in relation to biosecurity matter until biosecurity zone regulatory provisions are made in relation to the biosecurity matter. Also, a movement control order could be a response to the existence of biosecurity matter that is limited in its extent and is able to be eradicated over a short period.

(3) The chief executive may make a movement control order only if the chief executive is satisfied on reasonable grounds that the controlled biosecurity matter under the order poses a biosecurity risk of enough seriousness, and that the risk is high enough, to justify the making of the order.

(4) A movement control order may exclude stated persons, or persons of a particular class, from its operation.

Example—

A movement control order might exclude from its operation a person who has entered into a compliance agreement with the chief executive in relation to controlled biosecurity matter or who is undertaking an industry approved quality assurance program for managing controlled biosecurity matter.

(5) As soon as practicable after making a movement control order, the chief executive must—

(a) publish in the gazette a notice of the making of the movement control order, the order's subject matter generally and the places where a copy of the order may be obtained; and

(b) take all reasonable steps to ensure that persons likely to be directly affected by the order are made aware of the making of the order, including, for example, by some or all of the following—

(i) advertising in newspapers, on radio and on television;

(ii) electronically using emails or text messages;

Example—

SMS messaging in an area to which the movement control order relates

(iii) automated telephoning.

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(6) A movement control order is not invalid only because of a failure of the chief executive to comply with subsection (5).

(7) A movement control order may be preventative in nature in relation to controlled biosecurity matter even if, when the order is made, there is no evidence of the controlled biosecurity matter in an area the subject of the order.

Example—

If a disease is evident in a place outside the State but not within the State, a movement control order could nevertheless be directed at stopping the disease from entering the State.

(8) Unless it is sooner revoked, a movement control order stays in force until 3 months have elapsed after the order is made.

(9) Without limiting the chief executive's power to revoke a movement control order—

(a) if a movement control order is inconsistent with biosecurity zone regulatory provisions, the biosecurity zone regulatory provisions prevail to the extent of the inconsistency; and

(b) a regulation may revoke a movement control order.

(10) To remove any doubt, it is declared that subsections (2) to (5) also apply for the amendment or revocation of a movement control order, to the greatest practicable extent.

(11) In this section—

manage, biosecurity matter, includes—

(a) prevent its transmission or spread; and

(b) address the biosecurity risk posed by it.

restrict includes allow on conditions.

125 Matters for inclusion in movement control order

(1) Without limiting the matters that may be included in a movement control order, a movement control order must include details of each of the following—

(a) why the movement control order is being made;

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(b) what the movement control order is intended to achieve;

(c) the areas to which the movement control order relates;

(d) the controlled biosecurity matter for the order, and any other biosecurity matter to which the movement control order relates;

(e) any carrier, including a carrier of a particular type, to which the movement control order relates;

(f) the prohibitions and restrictions that must be complied with by persons to whom the order applies.

(2) Without limiting the ways in which an area the subject of a movement control order may be identified, the area may be identified by reference to any of the following—

(a) an area outlined on a map;

(b) coordinates located using global positioning systems;

(c) real property descriptions;

(d) local government area boundaries or boundaries of divisions within a local government's area;

(e) electoral boundaries applying for State or Commonwealth elections;

(f) geographical features, including, for example, roads and rivers.

(3) Without limiting how a movement control order may prohibit or restrict the movement of biosecurity matter, including controlled biosecurity matter, or of a carrier, a movement control order may—

(a) prohibit or restrict the movement of biosecurity matter or a carrier—

(i) into or out of the State; or

(ii) into, out of or within a stated area of the State; or

(iii) into an area adjacent to a stated area of the State, as mentioned in subparagraph (ii), whether or not the movement is out of the stated area; or

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(iv) out of an area adjacent to a stated area of the State, as mentioned in subparagraph (ii), whether or not the movement is into the stated area; or

(b) impose conditions that must be complied with for movement of a type mentioned in paragraph (a); or

(c) give directions reasonably necessary or desirable to manage, reduce or eradicate controlled biosecurity matter, including directions regulating—

(i) the taking to or removal from a stated area, or the isolating or impounding in a stated area, of any stated biosecurity matter or carrier, including any fodder, grain, gravel, soil, designated animal, machinery and vehicle; or

(ii) what a person may or may not do on land within a stated area; or

(d) impose requirements on a person (the ***relevant person***)—

(i) to inspect or test any biosecurity matter or a carrier; or

(ii) to treat or destroy biosecurity matter (including controlled biosecurity matter and biosecurity matter in water) or a carrier; or

(iii) to clean or disinfect any place, including any structure or thing at a place; or

(iv) for any inspection, testing, treatment, destruction, disposal, transportation, decontamination, cleaning, disinfection or vaccination required under the order to be performed—

(A) by, or under the direction of, an authorised officer; and

(B) at the expense of the relevant person; or

(v) to notify an inspector about—

(A) the presence of controlled biosecurity matter; or

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(B) if the person reasonably suspects the presence of controlled biosecurity matter—the suspected presence of the biosecurity matter; or

(vi) to make a record about the movement of biosecurity matter or a carrier to which the movement control order relates and keep the record for the period stated in the order.

126 Compliance with movement control order

(1) A person to whom a movement control order applies must comply with the order.

Maximum penalty—2,000 penalty units or 1 year's imprisonment.

(2) A person who fails to comply with subsection (1) does not commit an offence against the subsection if the person—

(a) did not know, and ought not reasonably to have known, of the existence of the order; or

(b) has a reasonable excuse for not complying with the order.

Note—

See also section 132(6).

127 Effect of movement control order

A permit or other authorisation given under an Act other than for the purpose of managing, reducing or eradicating biosecurity matter is of no effect, while a movement control order is in force, to the extent it is inconsistent with the movement control order.

Example—

A permit to travel designated animals along a stock route given under legislation relating to the control and management of stock routes would not be effective to authorise travel that is prohibited under a movement control order while the order is in force.

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127A Additional powers of inspector for place within an area the subject of a movement control order

(1) Without limiting the powers of an inspector otherwise provided for in this Act, an inspector, or an authorised person acting under the direction of an inspector, may, in relation to a place to which a movement control order relates, and to the extent reasonably necessary for managing, reducing or eradicating controlled biosecurity matter, do any of the following—

(a) enter and re-enter the place—

(i) with consent; or

(ii) without consent, other than at night;

(b) give a direction restricting the movement of controlled biosecurity matter;

(c) direct a person to move controlled biosecurity matter to a stated area within the place;

(d) remove controlled biosecurity matter from the place;

(e) direct a person to inspect or test controlled biosecurity matter at the place;

(f) direct a person to clean or disinfect the place or any structure or thing at the place;

(g) direct a person to treat, destroy, dispose of, decontaminate, disinfect or vaccinate controlled biosecurity matter at the place;

(h) take any other action reasonably necessary for managing, reducing or eradicating the controlled biosecurity matter.

(2) Subsection (1) does not authorise the entry of a residence.

(3) An inspector or authorised person may exercise a power under subsection (1) only to the extent reasonably necessary for, and only for the purposes of, fulfilling the purpose and ensuring the effectiveness of the movement control order.

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(4) Subject to subsection (3), an inspector or authorised person may exercise a power under subsection (1) with the help, and using the force, that is necessary and reasonable in the circumstances.

(5) A person to whom a direction is given under subsection (1) must comply with the direction unless the person has a reasonable excuse.

Maximum penalty—1,000 penalty units or 1 year's imprisonment.

Part 3 Biosecurity zone regulatory provisions

128 Regulation may include provisions for biosecurity zones

(1) A regulation may include provisions (***biosecurity zone regulatory provisions***) that—

(a) establish the whole or a part of the State as a biosecurity zone for stated biosecurity matter (***regulated biosecurity matter*** for the biosecurity zone regulatory provisions) that may have an adverse effect on a biosecurity consideration; and

(b) include arrangements for managing, reducing or eradicating regulated biosecurity matter in relation to the biosecurity zone or areas outside the biosecurity zone.

Examples—

1 Biosecurity zone regulatory provisions might identify a particular variety of plant as regulated biosecurity matter for the provisions and restrict the movement and cultivation of plants of that variety within particular areas of the State to reduce the risk of the introduction and spread of diseases.

2 Biosecurity zone regulatory provisions might identify a particular type of tick as regulated biosecurity matter for the provisions and restrict the movement of susceptible animal species between particular areas where the ticks exist and particular areas where the ticks do not exist.

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(2) Biosecurity zone regulatory provisions may be directed at managing, reducing or eradicating regulated biosecurity matter over an extended period of time or indefinitely.

(3) Biosecurity zone regulatory provisions may exclude stated persons, or persons of a particular class, from their operation.

Examples—

1 Biosecurity zone regulatory provisions might exclude from their operation a person who has entered into a compliance agreement with the chief executive in relation to regulated biosecurity matter.

2 Biosecurity zone regulatory provisions might exclude from their operation a person who is undertaking an industry approved quality assurance program for managing regulated biosecurity matter.

(4) The chief executive must ensure that biosecurity zone regulatory provisions are published in full on the department's website as soon as practicable after they are notified.

(5) A regulation is not invalid only because of a failure of the chief executive to comply with subsection (4).

(6) In this section—

manage, biosecurity matter, includes—

(a) prevent its transmission or spread; and

(b) address the biosecurity risk posed by it.

129 Matters for inclusion in biosecurity zone regulatory provisions

(1) Without limiting what may be included in biosecurity zone regulatory provisions, biosecurity zone regulatory provisions may—

(a) prohibit or regulate dealing with biosecurity matter, including regulated biosecurity matter, or a carrier; or

Example—

prohibit or regulate the planting of a particular variety of plant

(b) direct the eradication, in the way stated, of biosecurity matter, including regulated biosecurity matter, or of a carrier; or

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Example—

Biosecurity zone regulatory provisions might direct the eradication of crop residues that may harbour regulated biosecurity matter.

(c) authorise the chief executive, by notice signed by the chief executive and published on the department's website, to provide for either or both of the following—

(i) the establishment of particular areas within the biosecurity zone;

(ii) the application, in relation to areas mentioned in subparagraph (i), or areas otherwise established under the biosecurity zone regulatory provisions, of lesser restrictions than would otherwise apply under the biosecurity zone regulatory provisions; or

(d) prohibit, regulate or require the movement of biosecurity matter, including regulated biosecurity matter, or a carrier, into, out of or within the biosecurity zone; or

Example—

Biosecurity zone regulatory provisions might include a prohibition on bringing designated animals or animal pathogens, of a type identified in the biosecurity zone regulatory provisions, into the biosecurity zone.

(e) prohibit, regulate or require the application of measures to prevent the introduction, establishment or spread of regulated biosecurity matter or otherwise to control the regulated biosecurity matter; or

Example—

Biosecurity zone regulatory provisions might include a requirement that susceptible animal species be treated for regulated biosecurity matter in the form of ticks before the susceptible animal species are taken out of the biosecurity zone.

(f) require that any biosecurity matter, including regulated biosecurity matter, or a carrier be subjected to inspection or testing; or

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Example—

Biosecurity zone regulatory provisions might include a requirement that soil be inspected for the presence or absence of regulated biosecurity matter in the form of fire ants before being brought out of the biosecurity zone.

(g) include notification requirements for regulated biosecurity matter; or

(h) require the keeping and inspection of records about the movement, in the course of the carrying on of business, of biosecurity matter, including regulated biosecurity matter, or of a carrier, into, out of or within the biosecurity zone.

(2) Without limiting the ways in which a biosecurity zone or another area may be identified, the zone or area may be identified by reference to any of the following—

(a) an area outlined on a map;

(b) coordinates located using global positioning systems;

(c) real property descriptions;

(d) local government area boundaries or boundaries of divisions within a local government's area;

(e) electoral boundaries applying for State or Commonwealth elections;

(f) geographical features, including, for example, roads and rivers.

(3) A notice by the chief executive under subsection (1)(c) can not impose restrictions greater than those otherwise applying under the biosecurity zone regulatory provisions.

130 Effect of biosecurity zone regulatory provisions

A permit or other authorisation given under an Act other than for the purpose of managing, reducing or eradicating regulated biosecurity matter in relation to a biosecurity zone or areas outside a biosecurity zone is of no effect, while

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biosecurity zone regulatory provisions are in force, to the extent it is inconsistent with the provisions.

Example—

A permit to travel designated animals along a stock route given under legislation relating to the control and management of stock routes would not be effective to authorise travel that is prohibited under biosecurity zone regulatory provisions while the provisions are in force.

Part 3A Biosecurity zone maps

130A Meaning of *biosecurity zone map*

(1) A ***biosecurity zone map*** is a map, identifying a biosecurity zone, held by the department and published on its website.

Editor's note—

A biosecurity zone map can generally be reduced or enlarged to show the exact location of the boundaries of a biosecurity zone identified on the map.

(2) A reference to a particular biosecurity zone map by name is a reference to the biosecurity zone map of that name.

130B Amendment of particular biosecurity zone maps

(1) This section applies if a biosecurity zone is identified, under biosecurity zone regulatory provisions (the ***relevant provisions***), by reference to a biosecurity zone map as in force from time to time.

(2) The chief executive may amend the biosecurity zone map if the chief executive—

(a) becomes aware that the regulated biosecurity matter to which the relevant provisions relate is present or absent in a particular area; or

(b) is otherwise satisfied there has been a change in the distribution of the regulated biosecurity matter to which the relevant provisions relate.

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(3) The chief executive may amend the biosecurity zone map as often as the chief executive considers necessary to more accurately show the distribution of the regulated biosecurity matter.

130C Requirements in relation to identification of particular biosecurity zones

(1) This section applies if—

(a) a biosecurity zone is identified, under biosecurity zone regulatory provisions, by reference to a biosecurity zone map as in force from time to time; and

(b) a new biosecurity zone map changing the area for the biosecurity zone is published on the department's website.

(2) The chief executive must ensure the new biosecurity zone map—

(a) states the biosecurity zone to which the map relates; and

(b) states the date and time the map was published on the department's website.

(3) As soon as practicable after the new biosecurity zone map is published on the department's website, the chief executive must take all reasonable steps to ensure that persons likely to be directly affected by the change of the area for the biosecurity zone are made aware of the making of the map, including, for example, by some or all of the following—

(a) advertising in newspapers, on radio or on television;

(b) electronically using emails, text messages or social media.

Example—

SMS messaging in the area for the biosecurity zone

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Part 4 Biosecurity instrument permits

131 Definition

In this part—

biosecurity instrument means a movement control order or biosecurity zone regulatory provisions.

132 Biosecurity instrument permit

(1) This section applies to a person who is subject to the operation of a biosecurity instrument.

(2) The person may apply to an inspector for a permit (a ***biosecurity instrument permit***) authorising the person to perform an activity, or not to perform an activity, other than in compliance with the biosecurity instrument.

Example—

A person might apply to an inspector for a permit authorising the person to move animals that are carriers of regulated biosecurity matter under biosecurity zone regulatory provisions to a place outside the biosecurity zone for the provisions, even though the movement is otherwise prohibited under the provisions.

(3) The inspector may refuse the application if—

(a) the application is for a biosecurity instrument permit authorising the person to move particular biosecurity matter or a particular carrier; and

(b) biosecurity zone regulatory provisions—

(i) regulate the movement of the biosecurity matter or carrier; and

(ii) provide that the biosecurity matter or carrier may be moved if an acceptable biosecurity certificate about a stated matter (the ***relevant requirement***) is given for the biosecurity matter or carrier; and

(c) the inspector is satisfied the person can reasonably obtain an acceptable biosecurity certificate about the

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relevant requirement for the biosecurity matter or carrier.

Example—

A person's application for a biosecurity instrument permit authorising the person to move particular banana plants into a biosecurity zone may be refused if—

- biosecurity zone regulatory provisions allow banana plants to be moved into the zone if an acceptable biosecurity certificate, stating that the plants have been the subject of a particular treatment, is given for the plants; and
- the inspector is satisfied the person could reasonably obtain a certificate of that type.

(4) The inspector may grant the biosecurity instrument permit only if the inspector is satisfied in the circumstances that granting the permit—

(a) will not increase the level of the biosecurity risk posed by the regulated or controlled biosecurity matter; and

(b) will not otherwise be detrimental to the effectiveness of the biosecurity instrument.

Examples of circumstances in which a permit might be granted—

1 A person who has taken appropriate measures to treat animals that are carriers for a disease that is controlled biosecurity matter under a movement control order might be granted a biosecurity instrument permit to move the animals into an area the subject of the movement control order.

2 A person who has entered into a compliance agreement with the chief executive to manage biosecurity matter, but who is not otherwise excluded from the operation of biosecurity zone regulatory provisions relating to that biosecurity matter, might be granted a biosecurity instrument permit not to comply with a requirement included in the biosecurity zone regulatory provisions.

(5) A biosecurity instrument permit may be granted on conditions the inspector considers necessary to ensure the matters stated in subsection (4).

(6) A person who does not comply with a biosecurity instrument does not commit the offence of failing to comply with the instrument if the noncompliance is authorised by a biosecurity instrument permit granted under this part.

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(7) A biosecurity instrument permit may authorise a person to perform or not to perform—

(a) a stated activity; or

(b) activities of a stated description.

(8) An inspector may at any time, by notice given to the holder of a biosecurity instrument permit, to preserve the intended purpose and effect of the biosecurity instrument—

(a) change the conditions of the permit; or

(b) cancel the permit.

(9) An inspector who refuses to grant a biosecurity instrument permit to a person, grants a biosecurity instrument permit to a person on conditions, amends the conditions of a person's biosecurity instrument permit or cancels a person's biosecurity instrument permit must give the person an information notice for the decision to refuse to grant, grant on conditions, amend or cancel.

(10) A biosecurity instrument permit can not authorise a person to perform an activity, or not to perform an activity, other than in compliance with a biosecurity emergency order.

133 Offences relating to biosecurity instrument permits

(1) A person who holds a biosecurity instrument permit must comply with the conditions of the permit unless the person has a reasonable excuse.

Maximum penalty—2,000 penalty units or 1 year's imprisonment.

(2) A person who holds a biosecurity instrument permit must, while acting, or purportedly acting, under the authority of the permit, carry the permit with the person unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

(3) A person who holds a biosecurity instrument permit must, if asked to do so by an authorised officer, and unless the person

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has a reasonable excuse, produce it to the authorised officer for the authorised officer's inspection—

(a) if the person is at the time of the request acting, or purportedly acting, under the authority of the permit—immediately; or

(b) otherwise—within the shortest practicable time after the request is made.

Maximum penalty—100 penalty units.

Chapter 7 Registration of biosecurity entities and designated animal identification

Part 1 Preliminary

134 What is a *designated animal*

A ***designated animal*** is—

(a) an animal that is a member of any of the following groups of animals—

(i) cattle;

(ii) sheep;

(iii) goats;

(iv) pigs;

(v) bison;

(vi) buffalo;

(vii) deer;

(viii) the family *Camelidae*;

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Examples of members of the family Camelidae—

alpacas, Arabian camels, llamas

(ix) the family *Equidae*;

Examples of members of the family Equidae—

horses, ponies, donkeys, mules, zebras

(x) designated birds;

(xi) bees; or

(b) an animal prescribed under a regulation as a designated animal (a ***prescribed designated animal***).

135 What is a *special designated animal*

A ***special designated animal*** is—

(a) an animal that is a designated animal because it is a member of any of the following groups of animals—

(i) cattle;

(ii) sheep;

(iii) goats;

(iv) pigs;

(v) bison;

(vi) buffalo;

(vii) alpacas;

(viii) llamas; or

(b) a designated animal prescribed under a regulation as a special designated animal.

135A What is a *designated bird*

A ***designated bird*** is a captive bird that—

(a) is kept for human consumption or to produce eggs for human consumption; or

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(b) has been released for free flight since it started to be kept in captivity.

Example—

a pigeon (*Columba livia*) used for racing

136 What is *designated biosecurity matter*

(1) ***Designated biosecurity matter*** is biosecurity matter prescribed under a regulation as designated biosecurity matter.

(2) Biosecurity matter that is any of the following can not be prescribed under subsection (1) as designated biosecurity matter—

(a) a designated animal;

(b) a pathogenic agent that can cause disease;

(c) a disease;

(d) a contaminant.

137 What is the *threshold number* of designated animals

The ***threshold number***, of designated animals, is—

(a) for designated animals other than prescribed designated animals—

(i) for designated animals other than bees or designated birds—1; or

(ii) for bees—1 bee hive; or

(iii) for designated birds—100; or

(b) for prescribed designated animals—

(i) the threshold number prescribed under a regulation; or

(ii) if no number is prescribed—1.

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138 What is the *threshold amount* of designated biosecurity matter

The ***threshold amount***, of designated biosecurity matter, is the amount prescribed under a regulation as the threshold amount for the designated biosecurity matter.

139 Who *keeps* a designated animal

(1) A person ***keeps*** a designated animal if the person effectively has responsibility for the care and control of the animal, whether or not the care and control is exercised through an agent or employee of the person.

(2) However, if at any time it is not reasonably practicable to identify who is the keeper of a designated animal under subsection (1), the person who at law has title to the animal is the person who ***keeps*** the animal.

(3) Each of subsections (4) and (5) identifies a person who, in addition to the person who, under subsection (1) or (2), keeps a designated animal, could also be a keeper of the animal.

(4) A person (the ***relevant person***) ***keeps*** a designated animal (other than a bee) if—

(a) the animal is located at a holding facility; and

(b) the relevant person has final responsibility for the operation of the holding facility whether or not the operation of the facility is carried out through an agent or employee of the relevant person.

(5) A person (also the ***relevant person***) ***keeps*** a designated animal (other than a bee) if—

(a) the animal is being travelled on a stock route, or is on a reserve for the travelling of designated animals in association with their being travelled on a stock route; and

(b) the relevant person has final responsibility for the travelling of the animal on the stock route, whether or not the travelling of the animal is carried out through an agent or employee of the relevant person.

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140 Who *holds* designated biosecurity matter

(1) A person ***holds*** designated biosecurity matter if the person is effectively in day-to-day control of the biosecurity matter, whether or not that control is exercised personally or through an agent or employee.

(2) However, if at any time it is not reasonably practicable to identify who is the holder of designated biosecurity matter under subsection (1), the person who at law has title to the biosecurity matter is the person who ***holds*** the biosecurity matter.

141 What is a *registrable biosecurity entity*

(1) A person is a ***registrable biosecurity entity*** if the person—

(a) keeps the threshold number or more of designated animals; or

(b) holds the threshold amount or more of designated biosecurity matter.

(2) For subsection (1), it does not matter whether the keeping or holding happens at 1 place or 2 or more places in the State.

(3) However, for identifying a registrable biosecurity entity, 2 or more persons could, taken together, be a registrable biosecurity entity even though 1 of those persons, acting separately, could be a separate registrable biosecurity entity.

Example for subsection (3)—

Persons A and B, acting in partnership, keep pigs. A and B together are a registrable biosecurity entity for the keeping of those pigs. Additionally, person A, acting alone and outside of the partnership, keeps other pigs. Person A is a separate registrable biosecurity entity for the keeping of the other pigs.

142 What is a *biosecurity circumstance*

A ***biosecurity circumstance*** is—

(a) the keeping of designated animals; or

(b) the holding of designated biosecurity matter.

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143 Who is the *occupier* of a place

(1) The ***occupier*** of a place is the person who, whether or not the owner of the place, is the person who is effectively in day-to-day control of the place, whether or not that control is exercised through an agent or employee.

(2) However, if at any time it is not reasonably practicable to decide who is the occupier of a place under subsection (1), the person who is the owner of the place is also the ***occupier*** of the place.

144 Who is the *NLIS administrator*

The ***NLIS administrator*** is the entity approved by the chief executive, by gazette notice, as the administrator of the database for the NLIS.

Part 2 Registration and related requirements

Division 1 Registration of registrable biosecurity entities

145 Registrable biosecurity entity must apply for registration

(1) A registrable biosecurity entity must, in compliance with this part, and unless the person has a reasonable excuse, apply for registration under this part unless the chief executive has given a registration exemption for the entity.

Maximum penalty—100 penalty units.

(2) The obligation under subsection (1) to apply for registration commences immediately after a person becomes a registrable biosecurity entity, and must be complied with within 14 days after the obligation commences or within any longer period approved by the chief executive under this section.

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(3) If a person is a registrable biosecurity entity because of each of 2 or more biosecurity circumstances, the person must apply for registration for each of the circumstances.

Example—

A corporation keeps 30 cattle and 20 pigs and holds more than the threshold amount of designated biosecurity matter, therefore providing 3 biosecurity circumstances because of which the corporation is a registrable biosecurity entity. The corporation must apply for registration under this part for each of the 3 circumstances.

(4) However, the entity may combine the applications in the 1 application document.

(5) An entity may apply to the chief executive to approve a longer period for applying for registration.

(6) An application under subsection (5) must be made in the approved form.

(7) The chief executive may decide the application by—

(a) approving the longer period applied for; or

(b) approving a period less than that applied for; or

(c) approving a longer period on conditions; or

(d) refusing to approve a longer period.

(8) If the chief executive acts under subsection (7)(b), (c) or (d), the chief executive must give the entity an information notice for the decision on the application.

146 Approval for registrable biosecurity entity to remain unregistered

(1) A registrable biosecurity entity may apply to the chief executive for exemption (a ***registration exemption*** for the entity) from the requirement that the entity apply for registration under this part.

(2) The application must be in the approved form.

(3) The approval may be given only if the chief executive is satisfied that no biosecurity circumstance applying to the entity poses a biosecurity risk.

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(4) If the chief executive decides to refuse the application, the chief executive must give the applicant an information notice for the decision to refuse the application.

147 Application for registration before becoming a registrable biosecurity entity

(1) A person who is not a registrable biosecurity entity for a biosecurity circumstance, but reasonably expects to become a registrable biosecurity entity for the circumstance, may apply for registration under this part as if the person were a registrable biosecurity entity for the circumstance.

(2) Subsection (3) applies if, on a day (the ***relevant day***)—

(a) a person expects, or ought reasonably to expect, that the person will, for an event period, be a registrable biosecurity entity for a biosecurity circumstance; and

(b) the person is not a registered biosecurity entity for the biosecurity circumstance for the event period.

(3) The person must, as required under subsection (4) and unless the person has a reasonable excuse, apply for registration under this part for the biosecurity circumstance as if the person were a registrable biosecurity entity for the circumstance.

Maximum penalty—100 penalty units.

Example of a person to whom subsection (3) might apply—

A person operates a place as a cattle saleyard on an occasional basis, but the person does not hold a current registration under this part for the keeping of cattle at the saleyard. However, the person is planning to hold a sale at the saleyard for 2 days, starting in 30 days. The person is about to advertise the sale and fully expects the sale to proceed as planned.

(4) The application must be made as soon as reasonably practicable but, unless it is not reasonably practicable, must be made before the commencement of the event period.

(5) In this section—

event period means a period, of not more than 14 days—

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(a) starting after the relevant day; and

(b) ending before the end of the 90 days immediately following the relevant day.

148 Application requirements for registration of registrable biosecurity entity

(1) An application for the registration of a registrable biosecurity entity must—

(a) be in the approved form; and

(b) be made to the chief executive by the entity; and

(c) state all of the following details (the ***designated details*** for the entity)—

(i) to the extent reasonably practicable, the real property description, address, local government area and any name, of each place (each a ***designated place***) where the keeping of designated animals or the holding of designated biosecurity matter happens or may happen;

(ii) the name, address and contact details of the entity;

(iii) if the applicant is not the occupier of a designated place—the name, address and contact details of the occupier of the place;

(iv) whether the occupier of any designated place is also the owner of the designated place, and, if not, the name, address and contact details of the owner of the designated place;

(v) the approximate numbers of each type of designated animal;

(vi) to the extent the application relates to the holding of designated biosecurity matter—the approximate area of the land on which the biosecurity matter is held, and any other matters about the land prescribed under a regulation; and

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(d) include any information of which the applicant is aware that could help the chief executive decide whether—

(i) a place the subject of the application should be declared as a restricted place; or

(ii) designated animals at a place the subject of the application should be declared as restricted animals; or

(iii) designated biosecurity matter at a place the subject of the application should be declared as restricted biosecurity matter; and

(e) be accompanied by the fee prescribed under a regulation; and

(f) be accompanied by evidence the chief executive reasonably requires that the person identified in the application as the registrable biosecurity entity is the appropriate person to make the application.

(2) To the extent the application relates to the keeping of bees, subsection (1)(c) does not apply and the designated details for the registrable biosecurity entity are—

(a) a statement that the application relates to the keeping of bees; and

(b) the name, address and contact details of the entity.

149 Registration of biosecurity entity

On receiving from a person an application for registration, the chief executive must consider the application and, if it complies with the requirements for an application, must as soon as practicable—

(a) register the person as a registered biosecurity entity in the biosecurity register; and

(b) advise the person of the registration.

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150 Chief executive may register person without application

(1) This section applies if the chief executive considers a person is, or is likely to become, a registrable biosecurity entity.

(2) The chief executive may register the person under this part—

(a) even though the person has not applied for registration; and

(b) even if the person can be expected to be a registrable biosecurity entity only on a temporary basis.

(3) However, before registering the person under this part, the chief executive must—

(a) give the person a notice stating—

(i) that the chief executive proposes to register the person because the person is, or is likely to become, a registrable biosecurity entity; and

(ii) the registration details the chief executive proposes to include in the biosecurity register for the person if the person becomes a registrable biosecurity entity, to the extent the details are known by the chief executive; and

(iii) a reasonable period within which the person may make written submissions to the chief executive about whether the person is, or is likely to become, a registrable biosecurity entity; and

(b) consider any written submission made by the person within the stated period.

(4) On registering the person as a registered biosecurity entity in the biosecurity register, the chief executive must—

(a) advise the person of the registration; and

(b) give the person an information notice for—

(i) the chief executive's decision to register the person without having received an application for registration; and

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(ii) the chief executive's decision about the registration details.

151 Allocation of PICs

(1) This section applies if the chief executive registers a person as a registered biosecurity entity under this part for the person's keeping of designated animals other than bees.

(2) The chief executive must allocate a property identification code (a ***PIC***) to any designated place the subject of the registration unless a PIC has already been allocated to the place because of another registration under this part.

(3) The chief executive may give a registered biosecurity entity a PIC other than for a designated place, and include the PIC in the biosecurity register, if the chief executive is satisfied it is necessary for the integrity of the NLIS.

(4) The chief executive must take any action the chief executive considers appropriate, including by cancelling or replacing a PIC and amending the biosecurity register accordingly, to ensure to the greatest practicable extent that any 1 place the details of which are recorded in the register has only 1 PIC that is unique to that place.

(5) If the chief executive takes any action under subsection (4) that affects the registration details of a registered biosecurity entity, the chief executive must give the entity an information notice for the decision to take the action.

(6) Subject to other requirements of this chapter relating to PICs, a PIC may take any form the chief executive considers appropriate.

152 Registered biosecurity entity may apply for deregistration

(1) If a person that is a registered biosecurity entity ceases to be a registrable biosecurity entity for a biosecurity circumstance, the person may apply to the chief executive for the person's

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deregistration as a registered biosecurity entity for the circumstance.

(2) The application must be in the approved form.

(3) The chief executive must remove the person from the biosecurity register if satisfied the person is no longer a registrable biosecurity entity for the biosecurity circumstance.

(4) Otherwise, the chief executive must refuse the application.

(5) If the chief executive decides to refuse the application, the chief executive must give the applicant for deregistration an information notice for the decision to refuse.

153 Registered biosecurity entity to be given proof of registration

(1) The chief executive may give a registered biosecurity entity proof of the entity's registration in the form approved by the chief executive.

(2) The chief executive must give a registered biosecurity entity proof of registration as mentioned in subsection (1) if the entity asks for it.

154 No transfer of registration

A registered biosecurity entity's registration can not be transferred.

155 Term of registration

(1) The term of the registration of a registered biosecurity entity is the term decided by the chief executive, having regard to the circumstances of the entity, but must not be more than 3 years.

(2) If the term of a registration is made up of 2 or more separate periods, the separate periods must be within a period of not more than 3 years.

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Example for subsection (2)—

An agricultural show society becomes registered as a registered biosecurity entity for the keeping of various designated animals for a 2-week period at the same time each year. The term of the registration could not be more than 3 of those 2-week periods.

156 Renewal of registration

(1) When the term of a registration as a registered biosecurity entity ends, the chief executive must renew the registration unless the chief executive has been otherwise advised by the entity.

(2) If the chief executive renews a registration as a registered biosecurity entity under subsection (1), the chief executive must require the registered biosecurity entity—

(a) to pay the prescribed fee for renewal of the registration; or

(b) to advise the chief executive why the entity no longer needs to be registered as a registered biosecurity entity.

(3) Subsection (1) does not stop the chief executive from at any time requiring a registered biosecurity entity to give the chief executive information the chief executive reasonably requires for confirming the continuing accuracy of any aspect of the entity's registration details.

(4) A registered biosecurity entity must comply with a requirement made to the entity under subsection (2) or (3) unless the entity has a reasonable excuse.

Maximum penalty—100 penalty units.

(5) Subsection (1) applies subject to sections 156B and 156C.

156A Notice requiring further information about registration

(1) This section applies in relation to a person who is a registered biosecurity entity for a biosecurity circumstance if—

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(a) the chief executive renews the person's registration under section 156(1) and makes a requirement of the person under section 156(2); and

(b) the person fails to comply with the requirement.

(2) The chief executive may give the person a notice stating—

(a) that the person must, within the stated notice period, advise the chief executive whether or not the person is a registrable biosecurity entity for the biosecurity circumstance; and

(b) that if the person does not comply with the requirement under paragraph (a), the chief executive may deregister the person as a registered biosecurity entity for the biosecurity circumstance under section 156C.

(3) The notice may require the person to give the chief executive information in an approved form.

(4) In this section—

notice period means a period of at least 90 days after the notice is given.

156B Person taken to have applied for deregistration

(1) This section applies in relation to a person who is a registered biosecurity entity for a biosecurity circumstance if—

(a) the chief executive gives the person a notice under section 156A(2); and

(b) the person advises the chief executive within the notice period under section 156A that the person has ceased to be a registrable biosecurity entity for the biosecurity circumstance.

(2) The person is taken to have made an application under section 152(1) for the person's deregistration as a registered biosecurity entity for the biosecurity circumstance.

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156C Deregistration by chief executive

(1) This section applies in relation to a person who is a registered biosecurity entity for a biosecurity circumstance if—

(a) the chief executive gives the person a notice under section 156A(2); and

(b) the person does not comply with the notice.

(2) The chief executive may deregister the person as a registered biosecurity entity for the biosecurity circumstance by removing the person from the biosecurity register in relation to the biosecurity circumstance.

(3) If the chief executive deregisters the person under subsection (2), the chief executive must give the person a notice confirming the deregistration.

(4) To remove any doubt, it is declared that the deregistration of a person in relation to a biosecurity circumstance under subsection (2) does not limit—

(a) the application of section 141 to the person; or

(b) the application of section 145 to the person for applying for registration for the biosecurity circumstance or a similar biosecurity circumstance.

Division 2 Special provisions relating to the keeping of bees

157 Keeping of bees in a hive

A person must not keep bees unless the bees are kept in a hive.

Maximum penalty—50 penalty units.

158 Allocation of HIN

(1) If the chief executive registers a registrable biosecurity entity under this part for the entity's keeping of bees, the chief

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executive must allocate a hive identification number (a ***HIN***) to the entity for the entity's hives.

(2) The chief executive must take any action the chief executive considers appropriate, including by cancelling or replacing a HIN and amending the biosecurity register accordingly, to ensure to the greatest practicable extent that a registered biosecurity entity has only 1 HIN that is unique to the entity's hives.

(3) If the chief executive takes any action under subsection (2) that affects the registration details of a registered biosecurity entity, the chief executive must give the entity an information notice for the decision to take the action.

(4) A HIN may take any form the chief executive considers appropriate.

(5) A registered biosecurity entity that has a HIN allocated to it by the chief executive must ensure that the hives the entity uses for the keeping of bees are marked or branded with the HIN, in the way prescribed under a regulation, to the following extent—

(a) for each group of 50 hives—at least 1 hive in the group must be marked or branded;

(b) subject to paragraph (a), for any group of less than 50 hives—at least 1 hive in the group must be marked or branded.

Maximum penalty—50 penalty units.

159 Display of information about registered biosecurity entity

(1) This section applies if hives that a registered biosecurity entity uses for the keeping of bees are located other than on land that is or that is adjacent to land that is residential land of the entity.

(2) The entity must, on 1 of the hives, or in a conspicuous place within the hives, display a notice that complies with the requirements, and contains the information relating to the

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entity's registration under this part, prescribed under a regulation.

Maximum penalty—20 penalty units.

(3) In this section—

residential land, of a registered biosecurity entity, means land on which is located the usual place of residence of—

(a) the entity; or

(b) an executive officer, agent or employee of the entity.

Division 3 Restricted places, restricted animals and restricted biosecurity matter

Subdivision 1 Biosecurity risk notices

160 Requirement to give biosecurity risk notice

(1) This section applies if a relevant person for a designated place becomes aware—

(a) the place poses, or may pose, a biosecurity risk; or

(b) a designated animal at the place poses, or may pose, a biosecurity risk; or

(c) designated biosecurity matter at the place poses, or may pose, a biosecurity risk.

(2) The relevant person must, as soon as practicable, give the chief executive notice (a ***biosecurity risk notice***) of the biosecurity risk.

Maximum penalty—50 penalty units.

(3) However, subsection (2) does not apply if the relevant person is aware the chief executive has been advised, or has otherwise become aware, of the biosecurity risk.

(4) In this section—

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relevant person, for a designated place, means—

(a) a registered biosecurity entity for the place; or

(b) an owner or occupier of the place.

Subdivision 2 Declarations of restricted places

161 Inclusion of restricted place entry in biosecurity register

(1) This section applies if the chief executive is satisfied on reasonable grounds that a particular place could pose a biosecurity risk.

Example—

The presence of contaminants consisting of heavy metals in soil at a place means plants grown at the place could contain unacceptable levels of the contaminants that could enter the food chain.

(2) The chief executive may, by making an entry in the biosecurity register—

(a) declare the place to be a restricted place; and

(b) declare how use of the place is to be restricted; and

(c) declare the restrictions applying to dealings with designated animals that are at the place while the place is declared to be a restricted place; and

(d) declare the restrictions applying to dealings with designated biosecurity matter that is at the place while the place is declared to be a restricted place; and

(e) declare the restrictions applying to dealings with carriers of biosecurity matter that are at the place while the place is declared to be a restricted place.

Example—

If the place is declared to be a restricted place because of the presence of a disease in soil at the place, a restriction may be that agricultural machinery (for example, a tractor) that is at the place when the declaration is made, or that is moved to the place while the declaration is in effect, must not be moved from the place until it has been decontaminated in a particular way.

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Note—

See section 169(2) for the details that must be included in the biosecurity register in relation to the restricted place.

(3) A restriction declared under subsection (2)(c) or (d) may continue to apply to dealings with the designated animals or designated biosecurity matter even though the declaration of the place as a restricted place has ended.

Example—

If the place is declared to be a restricted place because of the presence of contaminants consisting of heavy metals in soil at the place, a restriction may be that a designated animal that is at the place when the declaration is made, or that is moved to the place while the declaration is in effect, must not be sent to a meat processing place to be slaughtered until it has been pastured for a stated period on a place that is not a restricted place. If the declaration of the place as a restricted place ends before the animal has been pastured for the stated period on a place that is not a restricted place, the restriction on sending the animal to a meat processing place continues to apply.

(4) The entry and declarations may be made on the chief executive's own initiative or because of a biosecurity risk notice.

(5) For subsection (2), it does not matter whether the place is or is not a designated place for an entity's registration as a registered biosecurity entity.

(6) If the chief executive makes an entry and declarations under subsection (2), the chief executive must give each of the following an information notice for the decision to make the entry and declarations—

(a) the occupier of the place;

(b) if the occupier of the place is not the owner of the place—the owner;

(c) any entity that is, or is reasonably expected to become, a registered biosecurity entity and for whom the place is, or is reasonably expected to be, for the entity's registration, a designated place.

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162 Compliance with restricted place restrictions

(1) While a place is a restricted place, a person must not perform any activity in relation to the place that contravenes any restriction recorded in the biosecurity register under section 161(2)(b) about how the place is to be used.

Maximum penalty—800 penalty units.

(2) A person does not commit an offence against subsection (1) for the performance of an activity if the person—

(a) did not know, and ought not reasonably to have known, of the existence of the restriction; or

(b) has a reasonable excuse for the performance of the activity.

(3) A person must not deal with a designated animal in a way that contravenes a restriction recorded in the biosecurity register under section 161(2)(c) on dealings with the animal.

Maximum penalty—800 penalty units.

(4) A person does not commit an offence against subsection (3) by dealing with a designated animal in a way that contravenes a restriction if the person—

(a) did not know, and ought not reasonably to have known, of the existence of the restriction; or

(b) has a reasonable excuse for dealing with the designated animal in that way.

(5) A person must not deal with designated biosecurity matter in a way that contravenes a restriction recorded in the biosecurity register under section 161(2)(d) on dealings with the matter.

Maximum penalty—800 penalty units.

(6) A person does not commit an offence against subsection (5) by dealing with designated biosecurity matter in a way that contravenes a restriction if the person—

(a) did not know, and ought not reasonably to have known, of the existence of the restriction; or

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(b) has a reasonable excuse for dealing with the designated biosecurity matter in that way.

(7) A person must not deal with a carrier of biosecurity matter in a way that contravenes a restriction recorded in the biosecurity register under section 161(2)(e) on dealings with the carrier.

Maximum penalty—800 penalty units.

(8) A person does not commit an offence against subsection (7) by dealing with a carrier of biosecurity matter in a way that contravenes a restriction if the person—

(a) did not know, and ought not reasonably to have known, of the existence of the restriction; or

(b) has a reasonable excuse for dealing with the carrier in that way.

Subdivision 3 Declarations of restricted animals

162A Inclusion of restricted animal entry in biosecurity register

(1) This section applies if the chief executive is satisfied on reasonable grounds that a designated animal could pose a biosecurity risk.

Examples of a designated animal that could pose a biosecurity risk—

- a designated animal that has been contaminated with lead
- a designated animal that has been contaminated with organochlorides and has left the place at which it became contaminated before the place was declared to be a restricted place

(2) The chief executive may, by making an entry in the biosecurity register—

(a) declare the designated animal to be a restricted animal; and

(b) declare restrictions on dealings with the designated animal.

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Note—

See section 169(3) for the details that must be included in the biosecurity register in relation to the restricted animal.

(3) The entry and declarations may be made on the chief executive's own initiative or because of a biosecurity risk notice.

(4) If the chief executive makes an entry and declarations under subsection (2), the chief executive must give each of the following an information notice for the decision to make the entry and declarations—

(a) the registered biosecurity entity for the place where the designated animal is being kept;

(b) the occupier of the place where the designated animal is being kept;

(c) the owner of the designated animal.

162B Compliance with restricted animal restrictions

(1) A person must not deal with a restricted animal in a way that contravenes a restriction recorded in the biosecurity register under section 162A(2)(b) on dealings with the animal.

Maximum penalty—800 penalty units.

(2) A person does not commit an offence against subsection (1) by using a restricted animal in a way that contravenes a restriction if the person—

(a) did not know, and ought not reasonably to have known, of the existence of the restriction; or

(b) has a reasonable excuse for dealing with the animal in that way.

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Subdivision 4 Declarations of restricted biosecurity matter

162C Inclusion of restricted biosecurity matter entry in biosecurity register

(1) This section applies if the chief executive is satisfied on reasonable grounds that designated biosecurity matter could pose a biosecurity risk.

Note—

See section 136 in relation to biosecurity matter that may be prescribed by regulation as designated biosecurity matter.

(2) The chief executive may, by making an entry in the biosecurity register—

(a) declare the designated biosecurity matter to be restricted biosecurity matter; and

(b) declare restrictions on dealings with the designated biosecurity matter.

Note—

See section 169(4) for the details that must be included in the biosecurity register in relation to the restricted biosecurity matter.

(3) The entry and declarations may be made on the chief executive's own initiative or because of a biosecurity risk notice.

(4) If the chief executive makes an entry and declarations under subsection (2), the chief executive must give each of the following an information notice for the decision to make the entry and declarations—

(a) the registered biosecurity entity for the place where the designated biosecurity matter is being kept;

(b) the occupier of the place where the designated biosecurity matter is being kept;

(c) the owner of the designated biosecurity matter.

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162D Compliance with restricted biosecurity matter restrictions

(1) A person must not deal with restricted biosecurity matter in a way that contravenes a restriction recorded in the biosecurity register under section 162C(2)(b) on dealings with the matter.

Maximum penalty—800 penalty units.

(2) A person does not commit an offence against subsection (1) by dealing with restricted biosecurity matter in a way that contravenes a restriction if the person—

(a) did not know, and ought not reasonably to have known, of the existence of the restriction; or

(b) has a reasonable excuse for dealing with the matter in that way.

Subdivision 5 Ending of declarations

163 Ending declaration of restricted place

(1) The chief executive may end the declaration of a place as a restricted place when the chief executive is satisfied the place no longer poses a biosecurity risk.

(2) A declaration ends when the chief executive—

(a) if the entry in the biosecurity register that makes the declaration includes 1 or more restrictions declared under section 161(2)(c) or (d) that apply after the declaration of the place as a restricted place has ended—amends the entry to record that the declaration has ended; or

Note—

A restriction declared under section 161(2)(c) or (d) may apply after the declaration of the place as a restricted place has ended. See section 161(3).

(b) otherwise—removes the entry making the declaration from the biosecurity register.

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(3) The chief executive may remove an entry amended under subsection (2)(a) from the biosecurity register when each restriction mentioned in the subsection stops applying.

(4) The chief executive may end a declaration—

(a) on the chief executive's own initiative; or

(b) on an application made under this subdivision for the declaration to be ended.

163A Ending declaration of restricted animal or restricted biosecurity matter

(1) The chief executive may end the declaration of a designated animal as a restricted animal when the chief executive is satisfied the animal no longer poses a biosecurity risk.

(2) The chief executive may end the declaration of designated biosecurity matter as restricted biosecurity matter when the chief executive is satisfied the matter no longer poses a biosecurity risk.

(3) A declaration ends when the chief executive removes the entry making the declaration from the biosecurity register.

(4) The chief executive may end a declaration—

(a) on the chief executive's own initiative; or

(b) on an application made under this subdivision for the declaration to be ended.

164 Application for declaration of restricted place to be ended

(1) A person may apply to the chief executive to end the declaration of a place as a restricted place.

Note—

See section 163(2) for when the declaration ends.

(2) A person may make an application under subsection (1) only if the person is—

(a) the occupier of the place; or

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(b) the owner of the place; or

(c) any entity that is, or is reasonably expected to become, a registered biosecurity entity and for whom the place is, or is reasonably expected to be, for the entity's registration, a designated place.

164A Application for declaration of restricted animal to be ended

(1) A person may apply to the chief executive to end the declaration of a designated animal as a restricted animal.

Note—

See section 163A(3) for when the declaration ends.

(2) A person may make an application under subsection (1) only if the person is—

(a) the registered biosecurity entity for the place where the restricted animal is being kept; or

(b) the occupier of the place where the restricted animal is being kept; or

(c) the owner of the restricted animal.

164B Application for declaration of restricted biosecurity matter to be ended

(1) A person may apply to the chief executive to end the declaration of designated biosecurity matter as restricted biosecurity matter.

Note—

See section 163A(3) for when the declaration ends.

(2) A person may make an application under subsection (1) only if the person is—

(a) the registered biosecurity entity for the place where the designated biosecurity matter is being kept; or

(b) the occupier of the place where the designated biosecurity matter is being kept; or

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(c) the owner of the designated biosecurity matter.

164C Requirements for application

An application under section 164, 164A or 164B must—

(a) be in the approved form; and

(b) be accompanied by the fee prescribed by regulation; and

(c) outline any steps taken to ensure the restricted place, restricted animal or restricted biosecurity matter does not pose a biosecurity risk; and

(d) include evidence (for example, reports prepared by suitably qualified persons) the restricted place, restricted animal or restricted biosecurity matter does not pose a biosecurity risk.

165 Inquiry about application

(1) Before deciding the application, the chief executive may, by notice to the applicant, require the applicant to give the chief executive, within the reasonable period of at least 30 days stated in the notice, further information or a document the chief executive reasonably requires to decide the application.

(2) The applicant is taken to have withdrawn the application if, within the stated period, the applicant does not comply with the requirement.

(3) A notice under subsection (1) must be given to the applicant within 30 days after the chief executive receives the application.

(4) The information or document under subsection (1) must, if the notice requires, be verified by statutory declaration.

166 Decision on application

(1) The chief executive must consider the application and decide to grant, or refuse to grant, the application.

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(2) If the chief executive decides to refuse the application, the chief executive must give the applicant an information notice for the decision.

(3) If the chief executive decides to grant the application, the chief executive must—

(a) advise the applicant of the decision; and

(b) as soon as practicable, remove the entry from the biosecurity register; and

(c) advise the applicant when the entry is removed from the biosecurity register.

167 Failure to decide application

(1) Subject to subsections (2) and (3), if the chief executive fails to decide the application within 30 days of its receipt, the failure is taken to be a decision by the chief executive to refuse to grant the application.

(2) Subsection (3) applies if the chief executive has, under section 165(1), required the applicant to give the chief executive further information or a document.

(3) The chief executive is taken to have refused the application if the chief executive does not decide the application within 30 days after the chief executive receives the further information or document.

(4) If the application is taken to be refused under this section, the applicant is entitled to be given an information notice by the chief executive for the decision.

Division 4 The biosecurity register

168 Chief executive's obligation to keep register

The chief executive must keep a register (the ***biosecurity register***) of the following—

(a) registered biosecurity entities;

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(b) restricted places;

(c) restricted animals;

(d) restricted biosecurity matter.

169 Information required to be kept

(1) The biosecurity register must include, for each registered biosecurity entity in relation to each biosecurity circumstance for which the entity is a registered biosecurity entity, all of the following details (the ***registration details***)—

(a) the designated details for the entity;

(b) any PIC that applies to the entity's registration;

(c) any HIN allocated for the entity's registration.

(2) The biosecurity register must include, for each restricted place—

(a) the address, local government area and any name of the place; and

(b) any PIC of the place; and

(c) the restrictions declared under section 161(2).

(3) The biosecurity register must include, for each restricted animal—

(a) information that identifies the animal; and

(b) the restrictions declared under section 162A(2)(b) on dealings with the animal.

(4) The biosecurity register must include, for each restricted biosecurity matter—

(a) information that identifies the matter; and

(b) the restrictions declared under section 162C(2)(b) on dealings with the matter.

(5) The chief executive may record other information the chief executive considers appropriate about a registered biosecurity

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entity, restricted place, restricted animal or restricted biosecurity matter.

170 Requirement for change notice

(1) This section applies if a registered biosecurity entity becomes aware of a change that affects or may affect the accuracy of the entity's designated details.

(2) The registered biosecurity entity must, as soon as practicable, give the chief executive notice of the change (a ***change notice***).

Maximum penalty—50 penalty units.

171 Correction and updating of biosecurity register for registered biosecurity entities

(1) The chief executive may correct the designated details for a registered biosecurity entity if satisfied that—

(a) the designated details are incorrect as registered; or

(b) the correction is necessary to ensure the traceability of designated animals or designated biosecurity matter.

(2) The correction may be made at the chief executive's own initiative, at the registered biosecurity entity's request, or because of a change notice.

(3) If a correction is made at the chief executive's own initiative, and without a registered biosecurity entity's request or consent and not because of a change notice to the extent the change notice is about the entity's designated details, the chief executive must give the entity an information notice for the decision to make the correction.

(4) If the chief executive is given a change notice, the chief executive must refuse to correct the designated details in compliance with the change notice to the extent the chief executive is satisfied that, in the circumstances, a further application for registration under this part should be made.

(5) In this section—

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correct includes amend, and for a PIC or HIN, cancelling and replacing it.

172 Publication of information held in biosecurity register

(1) The chief executive—

(a) must publish on the department's website the following information held in the biosecurity register for each registered biosecurity entity—

(i) the local government area and any name of each designated place for which the entity is registered;

(ii) any PIC that applies to the entity's registration; and

(b) may publish on the department's website any other information held in the biosecurity register for a registered biosecurity entity.

(2) Also, the chief executive may publish on the department's website all or part of the information held in the biosecurity register for—

(a) a restricted place; or

(b) a restricted animal; or

(c) restricted biosecurity matter.

173 Taking copies of biosecurity register

(1) On application by a person (the ***applicant***) and payment of the fee prescribed by regulation, the chief executive may, under subsection (2), (3), (4) or (5), give the applicant a copy of information held in the biosecurity register.

(2) The applicant may be given a copy of information relating to a registered biosecurity entity only if the information—

(a) is required to be published on the department's website under section 172(1)(a); or

(b) has been published on the department's website under section 172(1)(b).

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(3) The applicant may be given a copy of information relating to a restricted place only if—

(a) the applicant is—

(i) an owner or occupier of the place; or

(ii) a registered biosecurity entity for the place; or

(b) the owner of the place gives written consent for the applicant to be given the information; or

(c) the information has been published on the department's website under section 172(2); or

(d) disclosing the information to the applicant is required or permitted under this Act or another Act.

(4) The applicant may be given a copy of information relating to a restricted animal only if—

(a) the applicant is—

(i) a person who keeps the animal; or

(ii) an occupier of the place where the animal is being kept; or

(iii) the owner of the animal; or

(b) the owner of the animal gives written consent for the applicant to be given the information; or

(c) the information has been published on the department's website under section 172(2); or

(d) disclosing the information to the applicant is required or permitted under this Act or another Act.

(5) The applicant may be given a copy of information relating to restricted biosecurity matter only if—

(a) the applicant is—

(i) a person who keeps the matter; or

(ii) an occupier of the place where the matter is being kept; or

(iii) the owner of the matter; or

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(b) the owner of the matter gives written consent for the applicant to be given the information; or

(c) the information has been published on the department's website under section 172(2); or

(d) disclosing the information to the applicant is required or permitted under this Act or another Act.

(6) Despite subsections (1) to (5), the chief executive may, on the chief executive's own initiative, give a person a copy of all or part of the information held in the biosecurity register if—

(a) the person is the NLIS administrator; or

(b) the person is carrying out functions under an Act administered by the department or under a law of another State or the Commonwealth that provides for the same or similar matters as an Act administered by the department; or

(c) the chief executive is satisfied disclosing the details to the person in the circumstances—

(i) is essential for the administration of a program under this Act relating to the control of animal health or accreditation; or

(ii) will contribute to the traceability of designated animals or designated biosecurity matter or of disease; or

(iii) will contribute to compliance with a standard under this Act relating to market access or reporting or product integrity.

(7) The information mentioned in subsection (6) may be given subject to conditions the chief executive considers appropriate.

Example of a condition for subsection (7)—

Information may be given to the NLIS administrator on the condition that the NLIS administrator gives the chief executive access to information from the database for the NLIS.

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173A Use of information by NLIS administrator

(1) This section applies in relation to information given to the NLIS administrator under section 173(6).

(2) The chief executive may authorise the NLIS administrator to disclose all or part of the information to a stated person or a person of a stated class (each an ***authorised recipient***).

Example of a stated class—

operators of abattoirs

(3) The chief executive's authorisation may be given—

(a) generally or in a particular case; and

(b) subject to any conditions the chief executive considers appropriate.

(4) Subsection (5) applies if the chief executive authorises the NLIS administrator under subsection (2) to disclose the information to an authorised recipient.

(5) The NLIS administrator may publish the information on a website maintained by the administrator, but only if access to the information is restricted to persons—

(a) who are authorised recipients for the information; or

(b) to whom the disclosure of the information is required or permitted under this Act or another Act.

(6) Subsection (3)(b) does not limit the conditions the chief executive may impose under section 173(7).

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Part 3 Special designated animal identification and tracing system

Division 1 Approved devices

174 What is an *approved device*

An ***approved device*** is a tag or other identifying device or mark that—

(a) may be fitted to a special designated animal for use in distinguishing the special designated animal from all other animals; and

(b) complies with the technical requirements decided by the chief executive as applying to tags or other identifying devices or marks to be fitted to special designated animals.

175 Meaning of *fit*

For this part—

fit, to an animal, other than in relation to a tag, includes the following—

(a) brand or tattoo the animal;

(b) insert into the animal.

176 Chief executive may approve different devices for different animals or circumstances

(1) The chief executive may decide different specifications for approved devices to be fitted to different types of special designated animals.

(2) The specifications must state the technical requirements for a device and may also provide for any of the following—

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(a) the type of special designated animal to which the device may be fitted;

(b) the circumstances that must apply to a special designated animal before the device may be fitted to the animal;

(c) the purposes for which the device may be fitted to a special designated animal.

(3) The chief executive must publish the specifications on the department's website.

(4) In deciding the specifications, the chief executive must, to the greatest practicable extent, comply with the provisions of a relevant code of practice, including, for example, provisions about the following—

(a) the testing of tags for suitability for fitting to an animal;

(b) the purposes of different types of tags;

(c) the positioning of tags fitted to special designated animals;

(d) conditions for the re-use, recycling and destruction of tags.

177 What is a *suitable approved device*

An approved device is a ***suitable approved device*** for a special designated animal if it is suitable to be fitted to the animal having regard to the specifications decided by the chief executive for the device.

178 Only suitable approved device to be fitted

(1) A person must not fit an approved device to a special designated animal if the device is not a suitable approved device for the animal.

Maximum penalty—100 penalty units.

(2) A person does not commit an offence against subsection (1) if the person—

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(a) did not know, and ought not reasonably to have known, that the device was not a suitable approved device; or

(b) has a reasonable excuse for fitting the device.

Division 2 Approved device requirement and travel approvals

179 Approved device requirement

(1) This section applies to a person if—

(a) the person is a registrable biosecurity entity; and

(b) the biosecurity circumstance for which the person is a registrable biosecurity entity is or includes the keeping of a special designated animal at a place (the ***place of origin***).

(2) The person must ensure that, if the special designated animal is moved from the place of origin, the animal is fitted with a suitable approved device for the animal unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

(3) Subsection (2) applies even if the person is not a registered biosecurity entity for the keeping of the special designated animal.

180 Exemptions from approved device requirement

A person does not commit an offence against the approved device requirement in relation to the movement of a special designated animal if—

(a) all of the following apply—

(i) the movement of the special designated animal is to a place that is a neighbouring place to the place of origin;

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(ii) the movement is for ordinary animal management purposes only;

Examples of ordinary animal management purposes—

dipping, branding and vaccinating

(iii) the person intends that the special designated animal be returned to the place of origin within 48 hours after arriving at the neighbouring place; or

(b) the lack of the fitted suitable approved device applies only for the first part of the movement, and the first part of the movement is to a place—

(i) that is a neighbouring place to the place of origin; and

(ii) that is a place where the approved device can be fitted; or

Example—

The neighbouring place, unlike the place of origin, is equipped with appropriate facilities for fitting the approved device.

(c) the special designated animal is a goat or pig and all of the following apply—

(i) the first part of the movement of the animal is direct to a sporting event from a place (the ***relevant place***);

(ii) no other animals are present at the sporting event, other than goats and pigs from the relevant place;

(iii) the second part of the movement of the animal is direct from the sporting event to the relevant place; or

Examples of a sporting event—

billy goat race, pig race

(d) the person holds an approval (a ***travel approval***) for the movement and all conditions of the travel approval are complied with.

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181 Obtaining a travel approval

(1) A person may apply to the chief executive for a travel approval for the movement of a special designated animal.

(2) The application must be in the approved form.

(3) The chief executive may grant the travel approval only if the chief executive is satisfied that—

(a) the special designated animal can be traced under the NLIS; and

(b) the movement does not pose a biosecurity risk.

(4) The chief executive may ask the applicant for further information or documents to decide the application.

(5) The chief executive must grant the travel approval, with or without conditions, or refuse the travel approval.

(6) If the chief executive decides to grant the travel approval without conditions, the chief executive must give the applicant a written travel approval.

(7) If the chief executive decides to grant the travel approval on conditions, the chief executive must give the applicant—

(a) a written travel approval that includes the conditions; and

(b) an information notice for the decision to grant the approval on the conditions.

(8) If the chief executive decides to refuse to grant the travel approval, the chief executive must give the applicant an information notice for the decision to refuse.

182 Failure to decide travel approval application

(1) Subject to subsections (2) and (3), if the chief executive fails to decide an application under section 181 within 30 days of its receipt, the failure is taken to be a decision by the chief executive to refuse to grant the application.

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(2) Subsection (3) applies if the chief executive has, under section 181(4), required the applicant to give the chief executive further information or a document.

(3) The chief executive is taken to have refused the application if the chief executive does not decide the application within 30 days after the chief executive receives the further information or document.

(4) If the application is taken to be refused under this section, the applicant is entitled to be given an information notice by the chief executive for the decision.

Division 3 Receiving special designated animals

Subdivision 1 Preliminary

183 Definitions for div 3

In this division—

prescribed information means the information prescribed under a regulation for a reporting requirement.

reporting requirement means a requirement under this division to give the NLIS administrator information about a special designated animal.

restricted agricultural show means an agricultural show to which at least 1 of the following apply—

(a) the duration of the agricultural show is no more than 96 hours;

(b) there are not more than 500 special designated animals required to be fitted with an approved device that includes a microchip that are present at the agricultural show at any 1 time;

(c) all special designated animals required to be fitted with an approved device that includes a microchip that are

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present at the agricultural show have most recently been kept at the same place.

184 Meaning of moving from another place

A reference in this division to a person taking delivery at a place of an animal that has been moved to the place from another place includes a reference to an animal that has been moved to the place where delivery is taken on a movement that did not involve its delivery to any other person.

Example—

An animal is moved along stock routes and is returned to the place where it started.

Subdivision 2 Receiver requirement to advise NLIS administrator

185 Application of sdiv 2

This subdivision applies if—

(a) a person (the ***receiver***) takes delivery at a place of a special designated animal that has been moved to the place from another place; and

(b) under the approved device requirement, the animal was required, for the movement, to be fitted with an approved device; and

(c) on the taking of delivery of the animal, the receiver is, or becomes, a registrable biosecurity entity for the keeping of the animal.

186 Special designated animal delivered to meat processing facility

(1) If the receiver takes delivery of the special designated animal at a meat processing facility, the receiver must, unless the receiver has a reasonable excuse—

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(a) within 48 hours after taking delivery of the animal at the facility, give the NLIS administrator the prescribed information; and

(b) within 48 hours after the slaughter of the animal, give the NLIS administrator the prescribed information.

Maximum penalty—100 penalty units.

(2) Subsection (1)(a) does not apply if, on taking delivery of the animal at the meat processing facility, the receiver reasonably expects the animal to be slaughtered within 5 days after its arrival.

Notes—

1 For changes to the timing for reporting if the receiver becomes a registrable entity on taking delivery, see section 191.

2 For other exceptions to the reporting requirement under this section, see section 192.

187 Special designated animal delivered to saleyard or live export holding

If the receiver takes delivery of the special designated animal at a saleyard or live export holding, the receiver must, unless the receiver has a reasonable excuse—

(a) within 48 hours after taking delivery of the animal at the saleyard or live export holding, give the NLIS administrator the prescribed information; and

(b) within 48 hours after the animal is moved from the saleyard or from the live export holding to a place outside Australia, give the NLIS administrator the prescribed information.

Maximum penalty—100 penalty units.

Notes—

1 For changes to the timing for reporting if the receiver becomes a registrable entity on taking delivery, see section 191.

2 For exceptions to the reporting requirement under this section, see section 192.

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188 Special designated animal delivered to restricted agricultural show

(1) This section applies if—

(a) the special designated animal is fitted with an approved device that includes a microchip; and

(b) the receiver takes delivery of the animal in the receiver's capacity as an entity that organises or otherwise holds an event that is a restricted agricultural show; and

(c) the animal will remain at the restricted agricultural show only for the period reasonably necessary for the animal's use in the restricted agricultural show, unless the receiver has a reasonable excuse for keeping the animal at the restricted agricultural show for a longer period.

(2) The receiver must, unless the receiver has a reasonable excuse, within 48 hours after taking delivery of the special designated animal, give the NLIS administrator the prescribed information.

Maximum penalty—100 penalty units.

Notes—

1 For changes to the timing for reporting if the receiver becomes a registrable entity on taking delivery, see section 191.

2 For exceptions to the reporting requirement under this section, see section 192.

189 Special designated animal moved from restricted agricultural show

(1) This section applies if—

(a) the special designated animal is fitted with an approved device that includes a microchip; and

(b) the receiver takes delivery of the animal at the place and the place is not a show place; and

(c) the animal has been moved to the place from a show place (the ***relevant show place***).

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(2) The receiver must, unless the receiver has a reasonable excuse, within 48 hours after taking delivery of the special designated animal, give the NLIS administrator the prescribed information.

Maximum penalty—100 penalty units.

(3) However, the receiver is not required to comply with subsection (2) if the special designated animal leaves the relevant show place and returns to the place where the animal was most recently kept before it was present at any show place.

Notes—

1 For changes to the timing for reporting if the receiver becomes a registrable entity on taking delivery, see section 191.

2 For other exceptions to the reporting requirement under this section, see section 192.

(4) In this section—

show place means a place for the holding of a restricted agricultural show.

190 Special designated animal delivered to another place

(1) This section does not apply if any of sections 186 to 189 apply.

(2) If the receiver takes delivery of the special designated animal at the place, the receiver must, unless the receiver has a reasonable excuse, within 48 hours after taking delivery of the animal, give the NLIS administrator the prescribed information.

Maximum penalty—100 penalty units.

(3) However, the receiver is not required to comply with subsection (2) to the extent the receiver takes delivery of the special designated animal in the receiver's capacity as—

(a) an owner or occupier of the place that is a place on which the animal is agisted if the owner or occupier is not the owner of the animal; or

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(b) a conveyor or drover of the animal.

(4) If subsection (3) applies, the responsible person for the special designated animal must, unless the responsible person has a reasonable excuse, within 48 hours after the receiver takes delivery of the animal, give the NLIS administrator the prescribed information.

Maximum penalty—100 penalty units.

Notes—

1 For changes to the timing for reporting if the receiver becomes a registrable entity on taking delivery, see section 191.

2 For other exceptions to the reporting requirement under this section, see section 192.

(5) In this section—

responsible person, for a special designated animal, means the person who at law has title to the animal, or who otherwise has final responsibility for the animal.

191 Timing for reporting if receiver becomes registrable entity on taking delivery

(1) This section applies if, on the taking of delivery of the special designated animal, the receiver becomes a registrable biosecurity entity for the keeping of the animal but has not yet obtained registration under part 2 of this chapter.

(2) The period of 48 hours mentioned in each of sections 186 to 190 does not start until the receiver obtains the registration.

192 Exceptions to reporting requirements

Sections 186 to 190 do not apply if—

(a) a person has advised the NLIS administrator of the relevant prescribed information before the special designated animal is moved to or from the place; or

(b) the special designated animal, because of the approved device requirement, is required to be fitted with a suitable approved device that includes a microchip but

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the animal is not fitted with the device before the receiver takes delivery of the animal at the place.

Subdivision 3 Receiver requirement to advise inspector

193 Particular special designated animal not fitted with suitable approved device

(1) This section applies if—

(a) a person (the ***relevant person***) takes delivery at a place of a special designated animal that has been moved from another place; and

(b) because of the approved device requirement, the animal should have been fitted with a suitable approved device at some time before the relevant person took delivery; and

(c) the animal is not fitted with a suitable approved device.

(2) The relevant person must, within 24 hours after taking delivery of the special designated animal, and unless the relevant person has a reasonable excuse, advise an inspector of the circumstances mentioned in subsection (1).

Maximum penalty—100 penalty units.

(3) The relevant person must comply with all reasonable directions the inspector gives the relevant person for ensuring appropriate identification of the special designated animal unless the relevant person has a reasonable excuse.

Maximum penalty—100 penalty units.

(4) Without limiting subsection (3), reasonable directions may include a direction for the relevant person to fit the special designated animal with an approved device.

(5) A person is not required to comply with subsection (2) to the extent the person takes delivery of the special designated

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animal in the person's capacity as a conveyor or drover of the animal.

(6) It is not a reasonable excuse for the relevant person to fail to comply with subsection (2) or (3) that the relevant person is not a registered biosecurity entity for the keeping of the special designated animal.

Division 4 Movement records

194 Movement record requirement

(1) This section applies to a person (the ***relevant person***) who is a registrable biosecurity entity for the keeping of a designated animal, whether or not the person is also a registered biosecurity entity for the keeping of the animal.

(2) The relevant person must ensure that, if the animal is moved from the place where the animal is kept—

(a) there is created, before the movement starts, a record of the proposed movement (the ***movement record***) in the appropriate form; and

(b) if the animal is a special designated animal, or if a biosecurity emergency order, movement control order or biosecurity zone regulatory provision provides that this section applies to the movement—any person who is the conveyor or drover of the animal for the purposes of the movement has, in the conveyor's or drover's possession, before the movement starts, a copy of the movement record or, if the record is kept in electronic form, the serial number for the electronic record.

Maximum penalty—200 penalty units.

(3) The relevant person is not required to comply with subsection (2) if—

(a) the movement of the animal is to or from a place that is a neighbouring place to the place where the movement starts; and

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(b) the movement is for ordinary stock management purposes, other than for the purpose of collecting or returning the animal because it has strayed; and

(c) the movement does not require a biosecurity instrument permit.

(3A) Also, the relevant person is not required to comply with subsection (2) if the animal is kept under an exhibited animal authority and the movement is allowed under the authority.

(4) Subsection (5) applies to the conveyor or drover of an animal for a movement if, under this section—

(a) a movement record is required for the movement; and

(b) the relevant person is required to ensure that the conveyor or drover has, in the conveyor's or drover's possession, before the movement starts, a copy of the movement record or, if the record is kept in electronic form, the serial number for the electronic record.

(5) The conveyor or drover must not proceed for the purposes of the movement if the conveyor or drover does not have, in the conveyor's or drover's possession, before the movement starts, a copy of the movement record or, if the record is kept in electronic form, the serial number for the electronic record.

Maximum penalty—200 penalty units.

(6) A single movement record may be created for the same proposed movement of 2 or more animals to which this section applies.

(7) A person who fails to comply with subsection (2) or (5) does not commit an offence against the subsection if the person has a reasonable excuse for the failure to comply.

(8) In this section—

exhibited animal authority see the *Exhibited Animals Act 2015*, section 29.

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195 Appropriate form of movement record

(1) For the movement record requirement, a movement record that relates to the movement of a designated animal is in the appropriate form if it is a document in hard copy or electronic form that clearly sets out the following information—

(a) the name of the person completing the record;

(b) details sufficient to identify the place from which the designated animal is being moved;

(c) where the designated animal is being moved to, and the name and address of the person who is to receive the animal;

(d) the proposed date of the movement of the designated animal;

(e) the species and breed of the designated animal;

(f) a description of the designated animal or, if the animal is part of a group of designated animals that are moved from the place where the animals are kept, a description of the group, including, for example, any distinguishing marks or features on the animal or group that may be sufficient to identify the animal or group;

(g) other information prescribed under a regulation.

(2) Also, to be in the appropriate form, a movement record for a designated animal that is a special designated animal must—

(a) be signed by the individual completing the record unless the record is created and kept only in electronic form; and

(b) bear a serial number that is unique for the record; and

(c) state the PIC shown on any approved device that does not include a microchip that is fitted to the animal.

(3) A single document, whether in hard copy or electronic form, may be used for more than 1 movement record if the movements relate to a designated animal other than a special designated animal.

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196 Relaxation of movement record requirement for multiple conveyances

(1) Nothing in this division is intended to stop 2 or more special designated animals being included in the 1 movement record if all the animals are conveyed between the same places at the same time.

(2) However, subject to subsections (3) to (6), special designated animals may be conveyed under a single movement record even though there are 2 or more conveyances.

(3) All the special designated animals must leave the same starting point within a period of 24 hours.

(4) The driver of each vehicle conveying any of the special designated animals must carry a certificate—

(a) either in hard copy or electronic form; and

(b) signed by a person required or authorised to create the movement record unless the certificate is in electronic form.

(5) The certificate must—

(a) state the number of special designated animals on the vehicle; and

(b) identify the movement record relating to the movement of all the special designated animals; and

(c) state the start and end points for the movement that are to appear on the movement record.

(6) The movement record must be completed before the first of the special designated animals leaves the starting point for the movement.

197 Keeping and producing movement record

(1) This section applies to a person (the ***relevant person***) who is required under the movement record requirement to ensure a movement record is created.

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(2) The relevant person must, unless the person has a reasonable excuse—

(a) if the designated animal is a special designated animal—keep a copy of the movement record or, if the record is kept in electronic form, the serial number for the electronic record, for 5 years after the movement started; or

(b) otherwise—keep the movement record or, if the record is kept in electronic form, the serial number for the electronic record, for 2 years after the movement started.

Maximum penalty—200 penalty units.

(3) The relevant person must, at any time in the period that applies under subsection (2), unless the person has a reasonable excuse, produce the copy, record or, if the record is kept in electronic form, serial number for the electronic record to an inspector for inspection if the inspector asks to see it.

Maximum penalty—200 penalty units.

198 Movement record for receiving designated animal

(1) Subsections (2) and (3) apply if—

(a) a designated animal is moved from 1 place to another; and

(b) under this division, a movement record is required to be completed for the movement; and

(c) the relevant person under the movement record requirement is required to ensure that a conveyor or drover of the animal has, in the conveyor's or drover's possession, a copy of the movement record or, if the record is kept in electronic form, the serial number for the electronic record.

(2) A person must not accept delivery of the animal, or, if the movement record requirement is relaxed under section 196, must not accept delivery of the animals, at the completion of the movement, unless the person also takes delivery of a copy

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of the movement record or, if the record is kept in electronic form, the serial number for the electronic record.

Maximum penalty—200 penalty units.

(3) A person who takes delivery of a copy of a movement record or the serial number for a record as required under subsection (2) must keep the copy or the serial number for 5 years after the movement started.

Maximum penalty—200 penalty units.

(4) Subsection (5) applies if—

(a) a designated animal is moved from 1 place to another; and

(b) under this division, a movement record is required to be created for the movement; and

(c) the relevant person under the movement record requirement is not required to ensure that a conveyor or drover of the animal has, in the conveyor's or drover's possession, a copy of the movement record or, if the record is kept in electronic form, the serial number for the electronic record.

(5) A person who accepts delivery of the animal at the end of the movement must create, and keep for 2 years after the movement started, a record complying with subsection (6).

Maximum penalty—200 penalty units.

(6) The record may be a document in hard copy or electronic form and must show the following—

(a) the name of the person completing the record;

(b) details sufficient to identify the place from which the designated animal was moved;

(c) where the animal was moved to, and the name and address of the person who received the animal;

(d) when the movement of the animal happened;

(e) the species and breed of the animal;

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(f) a description of the designated animal or, if the animal is part of a group of designated animals that are moved, a description of the group, including, for example, any distinguishing marks or features on the animal or group that may be sufficient to identify the animal or group;

(g) other information prescribed under a regulation.

(7) A person required to keep the copy of a movement record or serial number for a record for a period under subsection (3), or a record or serial number for a record for a period under subsection (5), must, at any time in the period, produce the copy, record or serial number for the record to an inspector for inspection if the inspector asks to see it.

Maximum penalty—200 penalty units.

(8) A person who fails to comply with subsection (2), (3), (5) or (7) does not commit an offence against the subsection if the person has a reasonable excuse for the failure to comply.

(9) A person is not required to comply with subsection (5) if the person accepts delivery of the animal in the person's capacity as a person having responsibility for the organisation and operation of an agricultural show and is required under section 199 to keep a record in relation to the animal.

199 Show organiser to record designated animal movements

(1) A person (the ***relevant person***) having responsibility for the organisation and operation of an agricultural show must keep, for 2 years after a designated animal arrives at the agricultural show, a record in the appropriate form for the designated animal.

Maximum penalty—200 penalty units.

(2) For subsection (1), a record is in the appropriate form if it is a document in hard copy or electronic form that clearly sets out the following information for a designated animal—

(a) where the designated animal came from;

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(b) when the designated animal arrived at the agricultural show;

(c) when the designated animal left the agricultural show;

(d) a description of the designated animal or, if the animal is part of a group of designated animals that arrived at the agricultural show, a description of the group, including, for example, any distinguishing marks or features on the animal or group that may be sufficient to identify the animal or group;

(e) the name and address of the person who kept the designated animal immediately before the animal arrived at the agricultural show;

(f) the name and address of the person who will be keeping the designated animal immediately after the animal leaves the agricultural show;

(g) for a designated animal fitted with an approved device that does not include a microchip—the PIC shown on the device for the animal;

(h) for a designated animal that participated in an event at the agricultural show—the date of the event.

(3) The relevant person is required to comply with subsection (1) whether or not the person is a registrable biosecurity entity for the keeping of the designated animal, and whether or not the person is required to comply with the movement record requirement for any movement of the designated animal.

(4) A person who fails to comply with subsection (1) does not commit an offence against the subsection if the person has a reasonable excuse for the failure to comply.

(5) This section applies to a designated animal that is caused to be present at the agricultural show at any time for the purpose, whether or not the purpose is fulfilled, of being exhibited at the show or of participating in an event at the show.

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200 False, misleading or incomplete movement record

A person who is required under the movement record requirement to ensure a movement record is created must, unless the person has a reasonable excuse, ensure the movement record does not contain information that the person knows or ought reasonably to know is false, misleading or incomplete in a material particular.

Maximum penalty—200 penalty units.

Division 5 Other requirements for approved devices

201 Supply of device for use as an approved device

(1) A person must not supply to another person a device of any kind for use as an approved device if the person knows, or ought reasonably to know, the device is not an approved device.

Maximum penalty—200 penalty units.

Example of a circumstance where a person ought reasonably to know a device is not an approved device—

The chief executive's specifications for a type of device require the PIC of the place where an animal is to be kept to be recorded on the type of device but a device of that type is supplied without the PIC recorded.

(2) A person (the ***supplier***) must not supply to another person (the ***purchaser***), other than the State, a device of any kind for use as an approved device unless the purchaser has first given the supplier a written order for the supply of the device.

Maximum penalty—200 penalty units.

(3) A person (also the ***purchaser***) must not receive from another person (also the ***supplier***) a device of any kind for use as an approved device unless the purchaser has first given the supplier a written order for the supply of the device.

Maximum penalty—200 penalty units.

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(4) A person (also the ***supplier***) who supplies to another person (also the ***purchaser***), other than the State, a device of any kind for use as an approved device must—

(a) make a record of the following information—

(i) the name and address of the purchaser;

(ii) the day the device was supplied to the purchaser;

(iii) any PIC recorded on or shown by the relevant device;

(iv) if other devices were supplied to the purchaser in the 1 transaction—how many devices were supplied in total;

(v) if the written order for the supply of the device has an expiry date—the expiry date; and

(b) keep the record for 5 years after the date of supply; and

(c) at any time in the 5 years mentioned in paragraph (b), unless the supplier has a reasonable excuse, produce the record to an inspector for inspection if the inspector asks to see it.

Maximum penalty—200 penalty units.

202 Restriction on applying or removing approved device

(1) A person must not fit an approved device (the ***new approved device***) to a special designated animal that is already fitted with an approved device (the ***existing approved device***) that is in the form of a tag unless—

(a) the existing approved device is first removed from the special designated animal as authorised under this section; or

(b) under the specifications decided by the chief executive for the new approved device, the new approved device is a suitable approved device for fitting to the special designated animal despite the fitting of the existing approved device.

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Maximum penalty—100 penalty units.

(2) A person may remove from a special designated animal an approved device fitted to the animal and in the form of a tag if—

(a) an inspector authorises the removal; or

(b) the device is malfunctioning and needs to be replaced; or

(c) under the specifications for the device as decided by the chief executive, the device is no longer a suitable approved device for the special designated animal, and a suitable approved device for the animal is to be fitted to the animal; or

(d) the removal is part of the process of slaughtering the special designated animal at a meat processing facility; or

(e) the special designated animal is dead and the animal's owner removes the tag; or

(f) the removal of the device is authorised under a regulation.

(3) A person must not remove from a special designated animal an approved device fitted to the animal and in the form of a tag unless the removal is authorised under subsection (2).

Maximum penalty—100 penalty units.

(4) Subsection (5) applies to a person if—

(a) the person removes an approved device (also the ***existing approved device***) from a special designated animal under subsection (2)(a), (b) or (c); and

(b) a suitable approved device for the special designated animal (also the ***new approved device***) is fitted to the animal in its place.

(5) The person must, within 48 hours after removing the existing approved device, advise the NLIS administrator of—

(a) the serial number of the new approved device; and

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(b) if the existing approved device includes a microchip—the RFID number of the microchip; and

(c) the PIC of the place where there is kept the special designated animal to which the device is to be fitted.

Maximum penalty—100 penalty units.

203 Restrictions on altering, defacing or destroying approved device

(1) A person must not alter or deface an approved device or allow an approved device to be altered or defaced, unless—

(a) the alteration or defacing happens because of the removal of the device from a special designated animal; and

(b) the removal is permitted or required under this Act.

Maximum penalty—200 penalty units.

(2) A person must not destroy an approved device, or allow an approved device to be destroyed, unless—

(a) the destruction happens because of the removal of the device from a special designated animal and the removal is permitted or required under this Act; or

(b) the destruction—

(i) happens before the device is fitted to any special designated animal; or

(ii) is otherwise permitted or required under this Act.

Maximum penalty—200 penalty units.

(3) A person does not commit an offence against subsection (1) if the person has a reasonable excuse for performing or allowing the alteration or defacement.

(4) In this section—

alter, an approved device, includes, for an approved device that is in the form of an electronic tag, doing anything that causes the device to malfunction.

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204 Requirement to destroy removed approved device

(1) This section applies if a person, as permitted or required under this Act, removes from a special designated animal an approved device fitted to the animal.

(2) The person must, as soon as reasonably practicable after the removal, destroy the approved device.

Maximum penalty—100 penalty units.

(3) However, if the specifications decided by the chief executive for the approved device allow for the recycling or re-use of the device, the person does not commit an offence against subsection (2) if the person, within a reasonable period, takes steps to recycle or re-use the device in compliance with any requirements stated in the specifications.

(4) If, having regard to subsection (3) the approved device is not destroyed as otherwise required under subsection (2), the person must, until the approved device is recycled or re-used, take reasonable steps to ensure the device is kept secure against theft.

Maximum penalty—100 penalty units.

205 Approval to use different PIC for approved device for special designated animal

(1) A registered biosecurity entity for the keeping of special designated animals, other than the operator of a saleyard, may apply to the chief executive for approval for the approved devices that are to be fitted to the animals to have recorded on them the PIC of a place other than the place where the special designated animals are kept.

(2) The application must be written and state the serial numbers of the approved devices.

(3) The chief executive must advise the applicant of the chief executive's decision on the application, and if the chief executive decides to refuse the application, the chief executive must give the applicant an information notice for the decision.

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Part 4 Miscellaneous

206 Evidentiary certificates for biosecurity register and NLIS database

(1) This section applies to a proceeding under or relating to this Act.

(2) A certificate purporting to be signed by the chief executive stating that a stated document is a copy of all or part of any of the following on a stated day or during a stated period, is evidence of the matters stated in the document on the day or during the period—

(a) the biosecurity register;

(b) the database for the NLIS.

207 Person must not give false or misleading information to NLIS administrator

A person who under this Act is required to give information to the NLIS administrator must not, unless the person has a reasonable excuse, give the NLIS administrator information that the person knows or ought reasonably to know is false or misleading in a material particular.

Maximum penalty—1,000 penalty units or 1 year's imprisonment.

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Chapter 8 Prohibited matter and restricted matter permits

Part 1 Preliminary

208 Issue of prohibited and restricted matter permits

The chief executive may issue prohibited matter permits and restricted matter permits under this chapter.

209 What is a *prohibited matter permit*

A ***prohibited matter permit*** is a permit that authorises stated dealings with stated prohibited matter.

210 What is a *restricted matter permit*

A ***restricted matter permit*** is a permit that authorises stated dealings with stated restricted matter.

211 Types of prohibited matter permits

The only types of prohibited matter permits that the chief executive may issue are the following—

(a) a scientific research (prohibited matter) permit;

(b) a controlled dealings (prohibited matter) permit;

(c) another type of prohibited matter permit prescribed under a regulation.

212 Types of restricted matter permits

The only types of restricted matter permits that the chief executive may issue are the following—

(a) a biological control permit;

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(b) a commercial use permit;

(c) a scientific research (restricted matter) permit;

(d) another type of restricted matter permit prescribed under a regulation.

213 What is a *permit plan* for prohibited or restricted matter

(1) A ***permit plan***, for prohibited matter or restricted matter, is a plan given to the chief executive by the applicant for a prohibited matter or restricted matter permit about how the applicant proposes to deal with the prohibited or restricted matter the subject of the proposed permit.

(2) A permit plan for prohibited or restricted matter must—

(a) identify potential biosecurity risks likely to arise because of the proposed dealing with the prohibited or restricted matter under the permit; and

(b) state the ways in which the applicant for the permit intends to minimise the biosecurity risks; and

(c) contain other information, relating to the control of biosecurity risks, prescribed under a regulation.

(3) Also, if a permit plan relates to restricted matter, and the restricted matter would, in the absence of the proposed permit, be required to be disposed of or destroyed, the permit plan must state how the restricted matter is to be disposed of or destroyed before the term of the permit ends.

Part 2 Permit applications

214 Applying for permit

(1) A person may apply to the chief executive for a prohibited matter permit or restricted matter permit.

(2) The application must—

(a) be in the approved form; and

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(b) be accompanied by—

(i) a permit plan for the prohibited matter or restricted matter under the proposed permit; and

(ii) the application fee prescribed under a regulation.

(3) If the application is for a scientific research (prohibited matter) permit, there must be included with the application—

(a) a document showing that the proposed dealings with prohibited matter will be conducted in a facility that has been approved, certified or registered to perform the dealings by an authority prescribed under a regulation; and

(b) a detailed research proposal.

(4) The applicant may withdraw the application at any time before the permit is issued.

(5) The application fee that accompanied the application is not refundable if the applicant withdraws the application, or if the application is taken to be withdrawn under this chapter.

(6) However, the chief executive may waive payment of the application fee if—

(a) the chief executive is satisfied—

(i) the proposed dealings with prohibited or restricted matter are aimed at controlling or eradicating the matter; and

(ii) the applicant will not derive any financial benefit from the dealings; and

(iii) the chief executive will be advised of the progress and outcomes of the dealings; or

(b) the chief executive is satisfied there are exceptional circumstances for waiving payment of the fee.

Example of an exceptional circumstance—

Payment of the fee would cause, or would be likely to cause, the applicant financial hardship.

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215 Inquiry about application

(1) Before deciding the application, the chief executive—

(a) may make inquiries to decide the suitability of the applicant to hold the prohibited matter or restricted matter permit; and

(b) may, by notice given to the applicant, require the applicant to give the chief executive within the reasonable period of at least 30 days stated in the notice, further information or a document the chief executive reasonably requires to decide the application.

(2) The applicant is taken to have withdrawn the application if, within the stated period, the applicant does not comply with a requirement under subsection (1)(b).

(3) A notice under subsection (1)(b) must be given to the applicant within 30 days after the chief executive receives the application.

(4) The information or document under subsection (1)(b) must, if the notice requires, be verified by statutory declaration.

216 Suitability of person to hold permit

In deciding whether the applicant is a suitable person to hold the prohibited matter or restricted matter permit, the chief executive may have regard to the following—

(a) whether the applicant has been refused a prohibited matter or restricted matter permit under this Act or a similar permit under a repealed Act or a corresponding law to this Act;

(b) whether the applicant held a prohibited matter or restricted matter permit under this Act, or a similar permit under a repealed Act or a corresponding law to this Act, that was suspended or cancelled;

(c) whether the applicant or, if the applicant is a corporation or an incorporated association, whether an executive officer of the corporation or a member of the

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association's management committee has a conviction for a relevant biosecurity offence, other than a spent conviction;

(d) any other matter the chief executive considers relevant to the person's ability to deal with prohibited or restricted matter under the permit applied for, including the applicant's capacity to comply with any conditions of the permit.

Part 3 Deciding application

217 Consideration of application

The chief executive must consider the application and grant, grant with conditions or refuse to grant the application.

218 Decision on application

(1) If the chief executive decides to grant the application, the chief executive must issue the permit to the applicant.

(2) If the chief executive refuses to grant the application, or agrees to grant the application on conditions other than those applied for, the chief executive must as soon as practicable give the applicant an information notice for the decision to refuse or to grant on conditions.

219 Failure to decide application

(1) Subject to subsections (2) and (3), if the chief executive fails to decide the application within 30 days after its receipt, the failure is taken to be a decision by the chief executive to refuse to grant the application.

(2) Subsection (3) applies if—

(a) a person has made an application for a prohibited matter permit or restricted matter permit; and

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(b) the chief executive has, under section 215(1)(b), required the applicant to give the chief executive further information or a document.

(3) The chief executive is taken to have refused to grant the application if the chief executive does not decide the application within 30 days after the chief executive receives the further information or document.

(4) If the application is taken to be refused under this section, the applicant is entitled to be given an information notice by the chief executive for the decision.

220 Criteria for decision

(1) The chief executive may grant the application only if satisfied—

(a) the applicant is a suitable person to hold the prohibited matter or restricted matter permit; and

(b) potential biosecurity risks posed by the proposed dealings with prohibited matter or restricted matter under the permit can be managed under the permit plan for the application in a way that has appropriate regard to biosecurity considerations.

(2) The chief executive must also be satisfied—

(a) if the application is for a scientific research (prohibited matter) permit—the proposed dealings with the prohibited matter will be conducted—

(i) in a facility that has been approved, certified or registered to perform the dealings; and

(ii) by an authority prescribed under a regulation; or

(b) if the application is for a controlled dealings (prohibited matter) permit—

(i) an inspector has been advised, under section 36, of the presence of biosecurity matter that is prohibited matter; and

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(ii) the proposed dealings with prohibited matter under the permit are consistent with isolating and stopping the spread of the prohibited matter or, if practicable, eradicating the prohibited matter.

221 Particular matters for scientific research (prohibited matter) permit

(1) In deciding an application for a scientific research (prohibited matter) permit, the chief executive must have regard to the following—

(a) any standards, codes of practice or guidelines identified under a regulation;

Example—

A regulation might identify an Australian Standard regarding engineering requirements for laboratories or a code of practice regarding calibrations and testing in laboratories.

(b) the likelihood of any significant advances in scientific knowledge being gained because of the research to be conducted under the permit;

(c) other matters relevant to the conduct of scientific research conducted under a prohibited matter permit and prescribed under a regulation.

(2) Subsection (1) does not limit the matters to which the chief executive may have regard in deciding whether to issue a scientific research (prohibited matter) permit.

Part 4 Term and conditions of permits

222 Term of permit

A prohibited matter or restricted matter permit remains in force, unless sooner suspended or cancelled, for the term of not more than 3 years decided by the chief executive and stated in the permit.

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223 Conditions of permit decided by the chief executive

(1) A prohibited matter or restricted matter permit is subject to the conditions decided by the chief executive in deciding to grant the application for the permit or renew the permit.

(2) The conditions must be those the chief executive considers appropriate, having regard to—

(a) the prohibited matter or restricted matter to which the permit applies; and

(b) the nature of the proposed dealings with the prohibited or restricted matter under the permit.

(3) Without limiting subsection (2), conditions may be about any of the following—

(a) the required level of containment for the prohibited or restricted matter to which the permit applies;

(b) the scope of the permitted dealings with the prohibited or restricted matter;

(c) disposal of the prohibited or restricted matter;

(d) record-keeping requirements;

(e) reporting requirements;

(f) whether the permit can be transferred.

(4) The conditions decided by the chief executive must be included in the permit when the permit is issued or renewed.

224 Other conditions applying to a permit

(1) It is a condition of a prohibited matter or restricted matter permit that the holder of the permit must allow an authorised officer to enter premises where the dealings under the permit are being undertaken to monitor—

(a) the dealings; and

(b) the holder's compliance with the permit and this Act in relation to the dealings.

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(2) A prohibited matter or restricted matter permit is also subject to any conditions prescribed under a regulation and applying to the permit.

(3) In this section—

premises does not include a place where a person resides.

Part 5 Renewal of permits

225 Application for renewal

(1) The holder of a prohibited matter or restricted matter permit may apply to the chief executive for renewal of the permit.

(2) The application must—

(a) be made within 60 days before the term of the permit ends; and

(b) be in the approved form; and

(c) be accompanied by the fee prescribed under a regulation.

(3) However, the chief executive may waive payment of the fee if the chief executive is satisfied of the matters mentioned in section 214(6)(a) or (b).

(4) The chief executive must consider the application and decide to renew, renew with conditions, or refuse to renew, the permit.

(5) In deciding the application, the chief executive may have regard to the matters to which the chief executive may have regard in deciding whether an applicant for a prohibited matter or restricted matter permit is a suitable person to hold a prohibited matter or restricted matter permit.

(6) If the chief executive decides to refuse to renew the permit, or to renew the permit with conditions other than those applied for, the chief executive must as soon as practicable give the applicant an information notice for the decision.

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(7) A permit may be renewed by the issuing of another permit to replace it.

226 Inquiry about application

(1) Before deciding an application under this part for renewal of a person's prohibited matter or restricted matter permit, the chief executive may, by notice given to the applicant, require the applicant to give the chief executive, within the reasonable period of at least 30 days stated in the notice, further information or a document the chief executive reasonably requires to decide the application.

(2) The applicant is taken to have withdrawn the application if, within the stated period, the applicant does not comply with the requirement.

(3) A notice under subsection (1) must be given to the applicant within 30 days after the chief executive receives the application.

(4) The information or document under subsection (1) must, if the notice requires, be verified by statutory declaration.

227 Failure to decide application

(1) Subject to subsections (2) and (3), if the chief executive fails to decide the application within 30 days after its receipt, the failure is taken to be a decision by the chief executive to refuse to grant the application.

(2) Subsection (3) applies if—

(a) a person has made an application for renewal of the person's prohibited matter or restricted matter permit; and

(b) the chief executive has, under section 226(1), required the applicant to give the chief executive further information or a document.

(3) The chief executive is taken to have refused to grant the application if the chief executive does not decide the

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application within 30 days after the chief executive receives the further information or document.

(4) If the application is taken to be refused under this section, the applicant is entitled to be given an information notice by the chief executive for the decision.

228 Permit continues pending decision about renewal

(1) If the holder of a prohibited matter or restricted matter permit applies for renewal of the permit under this part, the permit is taken to continue in force from the day it would, apart from this section, have ended until the application is decided or, under this part, taken to have been decided or is taken to have been withdrawn.

(2) Despite subsection (1), if the chief executive decides to refuse to renew the permit, or is taken to refuse to renew the permit, the permit continues in force until the information notice for the decision is given to the applicant.

(3) Subsection (1) does not apply if the permit is earlier suspended or cancelled.

229 Direction to dispose of prohibited or restricted matter when permit cancelled

(1) This section applies if—

(a) the chief executive cancels a prohibited matter or restricted matter permit; and

(b) the holder of the permit is in possession of prohibited or restricted matter to which the permit relates.

(2) The chief executive may, by notice given to the holder, direct the holder to dispose of the prohibited or restricted matter in the way and by the reasonable date stated in the notice.

(3) The permit holder must comply with the notice unless the holder has a reasonable excuse.

Maximum penalty—1,000 penalty units or 1 year's imprisonment.

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(4) Compensation is not payable for the disposal.

Part 6 Transfer of permits

230 Transfer of permit

(1) The holder of a prohibited matter or restricted matter permit and a proposed transferee of the permit may jointly apply to the chief executive in the approved form, accompanied by the prescribed fee, for the transfer of the permit to the proposed transferee.

(2) An application may not be made under subsection (1) if a condition of the permit provides that the permit is not transferable.

(3) Whether or not a condition as mentioned in subsection (2) applies to the permit, if the holder of a prohibited matter or restricted matter permit dies, the personal representative of the deceased holder may apply to the chief executive in the approved form for the transfer of the permit to the personal representative as transferee.

(4) The chief executive must consider an application made under subsection (1) or (3) and decide to transfer, or refuse to transfer, the permit.

(5) The chief executive may approve an application under subsection (1) or (3) only if the chief executive is satisfied that there will not, as a result of the transfer, be any substantial change in—

(a) the persons principally involved in dealing with prohibited matter or restricted matter under the permit; and

(b) the dealings with the prohibited matter or restricted matter to which the permit relates.

Example—

The chief executive might agree to a transfer of a prohibited matter permit in association with the sale of a business as a going concern.

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(6) Also, the chief executive must be satisfied that the transferee—

(a) is a suitable person to hold the permit; and

(b) has the capacity to ensure that conditions of the permit are complied with.

(7) To decide if the transferee is a suitable person to hold the permit, the chief executive may have regard to the matters mentioned in section 216.

(8) The chief executive is taken to have refused to approve an application if the chief executive does not decide the application within 30 days after the chief executive receives the application.

(9) If the chief executive refuses to approve an application, or the application is taken to have been refused under subsection (8), the chief executive must give the applicant an information notice for the decision.

(10) A permit may be transferred by the issuing of another permit to replace it.

Part 7 Register of prohibited matter and restricted matter permits

231 Register of permits

(1) The chief executive must keep a register of prohibited matter and restricted matter permits.

(2) The register must contain the following particulars for each permit—

(a) the name of the permit holder;

(b) the term of the permit and its expiry date;

(c) the type of permit;

(d) other information the chief executive considers appropriate.

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(3) The register must be published on the department's website.

(4) On application by a person and payment of the fee prescribed under a regulation, the person may buy a copy of all or part of the information held in the register.

Chapter 9 Programs for surveillance, prevention and control

Part 1 Preliminary

232 Types of biosecurity programs

A ***biosecurity program*** is—

(a) a surveillance program; or

(b) a prevention and control program.

233 What is a *surveillance program*

A ***surveillance program*** is a program directed at any of the following—

(a) monitoring compliance with this Act in relation to a particular matter to which this Act applies;

Examples—

- monitoring compliance with a code of practice for animal husbandry activities in feedlots in south-east Queensland
- monitoring compliance with a biosecurity zone regulatory provision requiring the keeping of records about movement of soil in a biosecurity zone
- monitoring compliance with the conditions of prohibited matter permits held by persons in north-east Queensland

(b) confirming the presence, or finding out the extent of the presence, in the State or the parts of the State to which

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the program applies, of the biosecurity matter to which the program relates;

(c) confirming the absence, in the State or the parts of the State to which the program applies, of the biosecurity matter to which the program relates;

(d) monitoring the effects of measures taken in response to a biosecurity risk;

(e) monitoring compliance with requirements about prohibited matter or restricted matter;

(f) monitoring levels of biosecurity matter or levels of biosecurity matter in a carrier.

Example—

monitoring levels of contaminants in animal feed

234 What is a *prevention and control program*

A ***prevention and control program*** is a program directed at any of the following—

(a) preventing the entry, establishment or spread of biosecurity matter in an area that poses a significant biosecurity risk;

(b) managing, reducing or eradicating any biosecurity matter in an area that could pose a significant biosecurity risk.

Part 2 Authorising and enforcing biosecurity programs

235 Authorising and carrying out biosecurity program

(1) Any of the following may authorise and carry out a biosecurity program (a ***program authorisation***)—

(a) the chief executive;

(b) a local government;

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(c) the chief executive and 1 or more local governments, if the chief executive officer of each local government agrees;

(d) 2 or more local governments, if the chief executive officer of each local government agrees;

(e) an invasive animal board if an operational area is prescribed for the board.

(2) A program authorisation must be authorised—

(a) for a program authorisation made by the chief executive—in writing; or

(b) for a program authorisation made by a local government—by a resolution of the local government; or

(c) for a program authorisation made by an invasive animal board—by a resolution of the board.

(3) However, a program authorisation for a prevention and control program may be made only if each relevant person for the program authorisation is satisfied—

(a) there is, or is likely to be, prohibited matter in an area; or

(b) there is in an area any biosecurity matter that poses or is likely to pose a significant biosecurity risk; or

Examples of biosecurity matter that pose or are likely to pose a significant biosecurity risk—

- a colony of red imported fire ants
- a plague of locusts
- an infestation of water mimosa

(c) measures are required to prevent the entry or establishment in an area of biosecurity matter that poses or is likely to pose a significant biosecurity risk; or

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Example of measures required to prevent the entry or establishment in an area of biosecurity matter—

surveillance, and distribution of baits containing pesticide, for red imported fire ants to prevent the ants from becoming established in an area adjacent to a known infested area

(d) after consultation with an industry group or community (each an ***interested entity***), that measures carried out jointly with the interested entity are required to control biosecurity matter in an area that would have a significant effect on members of the interested entity.

(4) Each relevant person for a program authorisation must ensure that each authorised officer who is proposed by the relevant person to act under a biosecurity program is informed of the contents of the program authorisation for the program.

(5) A program authorisation—

(a) if given by a local government—may relate only to places in, and invasive biosecurity matter for, the local government's area; or

(b) if given by an invasive animal board—may relate only to places in the board's operational area.

(6) In this section—

relevant person, for a program authorisation, means any 1 or more of the following—

(a) if the chief executive authorised the program—the chief executive;

(b) if a local government authorised the program—the chief executive officer of the local government;

(c) if an invasive animal board authorised the program—the chairperson of the board.

236 What program authorisation must state

(1) A program authorisation for a biosecurity program must state each of the following—

(a) the biosecurity matter to which the program relates;

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(b) the purpose of the program;

(c) when the program starts;

(d) the period over which the program is to be carried out;

(e) for a biosecurity program that is a surveillance program—

(i) if the program is directed at monitoring compliance with this Act—

(A) objective criteria for selecting places to be entered and inspected; and

(B) a description of the area in which the places are situated; or

(ii) if the program is directed at deciding the presence or extent of the spread of biosecurity matter—

(A) the parts of the State to which it applies; and

(B) if the program applies only to a particular type of place in the State or a part of the State—a description of the type;

(f) for a biosecurity program that is a prevention and control program—

(i) the nature and extent of the program, including—

(A) the parts of the State to which it applies; and

(B) if the program applies only to a particular type of place in the State or a part of the State—a description of the type; and

(ii) if a particular type of place is to be entered and inspected—a description of the type;

(g) the powers an authorised officer may exercise under the program, including the extent to which an authorised officer is to act under the program and the measures an authorised officer may take under the program;

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Examples of a measure an authorised officer may take under a surveillance program—

- monitor a manufacturer mixing animal feed and take samples of the feed to check for the presence of restricted animal material or contaminants
- use baits and lures to check for the presence of fruit fly in an area
- trap and test mosquitoes to find carriers of arboviruses
- take samples from cattle to decide the presence or absence of Johne's disease

Examples of a measure an authorised officer may take under a prevention and control program—

- spray pesticides on a locust swarm
- vaccinate animals to slow the spread of equine influenza
- check land for the presence or absence of red imported fire ants and, if ants are found, distribute baits containing pesticide

(h) the obligations that may be imposed upon a person who is an owner or occupier of a place to which the program applies.

Examples of an obligation for paragraph (h)—

1 A person may be required under a program authorisation for a surveillance program to move a herd of cattle from an inaccessible area of the person's property to allow an authorised officer to monitor the herd for signs of disease.

2 A person may be required under a program authorisation for a prevention and control program to inoculate a herd of cattle on the person's property to prevent disease in the cattle.

(2) The period over which a biosecurity program is to be carried out must be limited to the period reasonably necessary for achieving the program's purpose.

237 Giving a direction for prevention and control program

(1) An authorised officer may do the following, at any reasonable time and at a place situated in an area to which a prevention and control program applies—

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(a) direct an owner or occupier of the place to take reasonable steps within a reasonable period to remove or eradicate the biosecurity matter to which the program relates;

(b) destroy the biosecurity matter to which the program relates, or a carrier of the biosecurity matter, if the authorised officer believes on reasonable grounds the biosecurity matter or carrier poses a significant biosecurity risk.

(2) Despite subsection (1)(a), the steps a person may be directed to take must be limited to those reasonably necessary for achieving the program's purpose.

(3) When giving a direction under subsection (1)(a), the authorised officer must give the person an offence warning for the direction.

(4) This section—

(a) is subject to section 255; and

(b) does not limit the powers of an authorised officer under chapter 10.

Note—

See the following provisions in chapter 10 about powers of authorised officers—

- section 255 for limitations on the powers of authorised officers
- part 2 for the power to enter places
- part 4 for the general powers that can be exercised after entering places.

238 Failure to comply with direction

(1) A person who is given a direction under section 237(1)(a) must comply with the direction unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) A person does not commit an offence against subsection (1) if the person is not given an offence warning for the direction.

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Part 3 Consultation and notification

239 Consultation about proposed biosecurity program

(1) The chief executive must, before authorising a biosecurity program, consult with the local government for the area to which the program applies.

(2) A local government must, before authorising a biosecurity program, consult with—

(a) the chief executive; and

(b) an invasive animal board—

(i) with an operational area in or adjoining the local government's area; and

(ii) responsible for the management of an invasive animal that is biosecurity matter to which the program applies.

(3) An invasive animal board must, before authorising a biosecurity program, consult with—

(a) the chief executive; and

(b) a local government with responsibility for an area in or adjoining the board's operational area.

240 Notice of proposed biosecurity program

(1) At least 14 days before a biosecurity program starts, the following must give notice of the program—

(a) if the chief executive authorised the program—the chief executive;

(b) if a local government authorised the program—the chief executive officer of the local government;

(c) if an invasive animal board authorised the program—the chairperson of the board.

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(2) If more than 1 entity mentioned in subsection (1) authorised the program, only 1 of the persons required to give notice under the subsection must give notice of the program.

(3) The notice must—

(a) be given to each department or government owned corporation responsible for land in the area to which the biosecurity program relates, including by electronic means; and

Examples—

by post, telephone, email

(b) be published on—

(i) if the chief executive authorised the biosecurity program—the department's website; or

(ii) if the local government authorised the biosecurity program—the local government's website; or

(iii) if an invasive animal board authorised the biosecurity program—the board's website.

(4) The notice also may be published in another way the person giving the notice considers appropriate, including, for example, by radio or television in the area to which the biosecurity program applies.

(5) However, failure to give the notice to an entity under subsection (3)(a), or to publish the notice under subsection (3)(b), does not affect the validity of the biosecurity program.

(6) The notice must state each of the following—

(a) the purpose and scope of the biosecurity program;

(b) when the biosecurity program starts;

(c) the period over which the biosecurity program is to be carried out;

(d) if the biosecurity program is authorised by the chief executive—

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(i) that a copy of the program authorisation for the program is available for inspection or purchase at the department's head office and regional offices, if any, in the area to which the program applies until the end of the program; and

(ii) the price of a copy of the program;

(e) if the biosecurity program is authorised by a local government—

(i) the name of the local government; and

(ii) that a copy of the program authorisation for the program is available for inspection or purchase at the local government's public office until the end of the program; and

(iii) the price of a copy of the program;

(f) if the biosecurity program is authorised by an invasive animal board—

(i) the name of the board; and

(ii) that a copy of the program authorisation for the program is available for inspection or purchase at the board's public office until the end of the program; and

(iii) the price of a copy of the program.

(7) The price of a copy of the program authorisation for a biosecurity program must be no more than the cost of having the copy available for purchase, and, if the copy is posted to the purchaser, the postage cost.

241 Access to authorisation

From the start of a biosecurity program until the end of the program, copies of the program authorisation for the program must be available for inspection or purchase at—

(a) if the program is authorised by the chief executive—the department's head office and the department's regional

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offices, if any, in the area to which the program applies; and

(b) if the program is authorised by a local government—the local government's public office; and

(c) if the biosecurity program is authorised by an invasive animal board—the board's public office.

Chapter 10 Appointment and powers of officers

Part 1 General matters about inspectors and authorised persons

Division 1 Appointment of inspectors

242 Appointment and qualifications

(1) The chief executive may, by instrument in writing, appoint any of the following persons as inspectors—

(a) a public service employee;

(b) an employee of the Commonwealth or another State whose employment ordinarily involves matters about biosecurity;

(c) a person who performs functions related to matters about biosecurity under a law of another country;

(d) a veterinary surgeon under the *Veterinary Surgeons Act 1936*;

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(e) a person who has entered into a contract, or is employed by an entity that has entered into a contract, with the chief executive to perform a function under this Act;

(f) other persons or members of a class of persons prescribed under a regulation.

(2) However, the chief executive may appoint a person as an inspector only if the chief executive is satisfied the person is appropriately qualified.

243 Appointment conditions and limit on powers

(1) An inspector holds office on any conditions stated in—

(a) the inspector's instrument of appointment; or

(b) a signed notice given to the inspector; or

(c) a regulation.

(2) The instrument of appointment, a signed notice given to the inspector or a regulation may limit the inspector's powers.

(3) In this section—

signed notice means a notice signed by the chief executive.

244 When office ends

(1) The office of a person as an inspector ends if any of the following happens—

(a) the term of office stated in a condition of office ends;

(b) under another condition of office, the office ends;

(c) the inspector's resignation under section 245 takes effect.

(2) Subsection (1) does not limit the ways the office of a person as an inspector ends.

(3) In this section—

condition of office means a condition under which the inspector holds office.

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245 Resignation

(1) An inspector may resign by signed notice given to the chief executive.

(2) However, if holding office as an inspector is a condition of the inspector holding another office, the inspector may not resign as an inspector without resigning from the other office.

Division 2 Appointment of authorised persons

246 Appointment and qualifications

(1) The chief executive may appoint any of the following persons as an authorised person—

(a) a public service employee;

(b) a person or member of a class of persons prescribed under a regulation;

(c) a person who has entered into a contract, or is employed by an entity that has entered into a contract, with the chief executive to perform a function under this Act.

(2) The chief executive officer of a local government may appoint any of the following persons as an authorised person for the local government and its area—

(a) an employee of the local government;

(b) if another local government consents—an employee of the other local government;

(c) another person who has entered into a contract, or is employed by an entity that has entered into a contract, with the local government to perform a function under this Act.

(3) The chief executive officers of 2 or more local governments may appoint an employee of, or another person under contract to, 1 of the local governments to be an authorised person for the local governments' areas.

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(4) An invasive animal board may appoint a person as an authorised person.

(5) However, the chief executive, a chief executive officer or an invasive animal board may appoint a person as an authorised person only if the chief executive, the chief executive officer or invasive animal board is satisfied the person is appropriately qualified.

(6) An appointment under this section must be made by written instrument.

247 Appointment conditions and limit on powers

(1) An authorised person holds office on any conditions stated in—

(a) the authorised person's instrument of appointment; or

(b) a signed notice given to the authorised person; or

(c) a regulation.

(2) The instrument of appointment, a signed notice given to the authorised person or a regulation may limit the authorised person's powers.

(3) In this section—

signed notice means a notice signed by the administering executive.

248 When office ends

(1) The office of a person as an authorised person ends if any of the following happens—

(a) the term of office stated in a condition of office ends;

(b) under another condition of office, the office ends;

(c) the authorised person's resignation under section 249 takes effect.

(2) Subsection (1) does not limit the ways the office of a person as an authorised person ends.

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(3) In this section—

condition of office means a condition under which the authorised person holds office.

249 Resignation

(1) An authorised person may resign by signed notice given to the administering executive.

(2) For subsection (1), if a person is appointed as an authorised person by 2 or more chief executive officers, the person may resign by signed notice given to 1 of the chief executive officers.

(3) However, if holding office as an authorised person is a condition of the authorised person holding another office, the authorised person may not resign as an authorised person without resigning from the other office.

Division 3 Special provision for appointments of police officers and TORUM authorised officers

250 Purpose of division

(1) The purpose of this division is to make special provision for—

(a) the appointment of police officers as inspectors under this Act; and

(b) the appointment, as authorised persons under this Act, of persons appointed under TORUM as authorised officers or accredited persons.

(2) This division does not limit any power the chief executive may have—

(a) under division 1, to appoint, subject to the *Police Powers and Responsibilities Act 2000*, section 13, a police officer as an inspector under this Act; or

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(b) under division 2, to appoint an authorised officer or accredited person under TORUM as an authorised person under this Act.

251 Regulation may appoint prescribed class of police officer

(1) A regulation under this Act may provide that each police officer of a class described in the regulation is an inspector under this Act.

Example of regulation—

A regulation may declare that each police officer who is for the time being a member of the unit of the police service known as the stock investigation squad is an inspector under this Act.

(2) A police officer of the class described in the regulation is an inspector under this Act without further appointment.

(3) A regulation under subsection (1) does not limit the operation of the *Police Powers and Responsibilities Act 2000*, section 14 in relation to the exercise by a police officer of the powers of an inspector under this Act.

(4) However, subsection (3) does not prevent a regulation under subsection (1) from also limiting an inspector's exercise of powers under this Act.

252 Appointment of police officer as inspector for biosecurity emergency

(1) This section applies for the purposes of a biosecurity emergency order.

(2) The chief executive may by notice signed by the chief executive and published on the department's website provide that each police officer of a class described in the notice is an inspector under this Act for the purposes of implementation of the biosecurity emergency order.

(3) A police officer of the class described in the notice is an inspector under this Act without further appointment, but—

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(a) only while the biosecurity emergency order is in force or for a shorter period stated in the notice; and

(b) only for the purposes of the biosecurity emergency provisions identified in the notice.

(4) Subsection (3) does not limit what may be contained in the notice.

(5) A notice under subsection (2) does not limit the operation of the *Police Powers and Responsibilities Act 2000*, section 14 in relation to the exercise by a police officer of the powers of an inspector under the biosecurity emergency provisions.

(6) Before the chief executive makes a notice under subsection (2), the chief executive must consult with the commissioner of the police service about the contents of the proposed notice.

253 Appointment of authorised officer or accredited person under TORUM as authorised person for biosecurity emergency

(1) This section applies for the purposes of a biosecurity emergency order.

(2) The chief executive may by notice signed by the chief executive and published on the department's website provide that each person, other than a police officer, holding appointment as an authorised officer or accredited person under TORUM, chapter 3, part 2, and who is of a class described in the notice, is an authorised person under this Act for the purposes of implementation of the biosecurity emergency order.

(3) Each person, other than a police officer, who holds appointment as an authorised officer or accredited person under TORUM, chapter 3, part 2 and who is of the class described in the notice is an authorised person under this Act without further appointment, but—

(a) only while the biosecurity emergency order is in force or for a shorter period stated in the notice; and

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(b) only for the purposes of the biosecurity emergency provisions identified in the notice.

(4) Subsection (3) does not limit what may be contained in the notice.

(5) Before the chief executive makes a notice under subsection (2), the chief executive must consult with the chief executive under TORUM about the contents of the proposed notice.

Division 4 General matters about authorised officers

254 Powers generally

(1) An authorised officer has the powers given under this Act.

(2) In exercising the powers, the authorised officer is subject to the directions of the administering executive.

255 Powers of particular authorised officers limited

(1) An authorised person appointed by the chief executive officer of a local government or by the chief executive officers of 2 or more local governments may exercise the powers of an authorised person under this Act only—

(a) in the local government area or local governments' areas; and

(b) in relation to invasive biosecurity matter for its area or their areas.

(2) An authorised person appointed by an invasive animal board may exercise the powers of an authorised person under this Act only—

(a) in an area within—

(i) if the board has an operational area—the operational area; or

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(ii) otherwise—within 20m of the part of the barrier fence for which the board is responsible; and

(b) in relation to the invasive animal managed by the board.

(3) An authorised officer may exercise the powers of an authorised officer under this Act in relation to a biosecurity program only if the authorised officer is appointed by at least 1 of the entities that authorised the biosecurity program.

256 Functions of authorised officers

(1) An authorised officer has the following functions—

(a) to investigate, monitor and enforce compliance with this Act;

(b) to investigate or monitor whether an occasion has arisen for the exercise of powers under this Act;

(c) to facilitate the exercise of powers under this Act;

(d) to help achieve the purposes of this Act by providing advice and information on how the purposes may be achieved.

(2) Subject to this Act, an authorised officer may exercise the powers under this Act for the purpose of these functions.

Division 5 Miscellaneous provisions

257 References to exercise of powers

If—

(a) a provision of this chapter refers to the exercise of a power by an authorised officer; and

(b) there is no reference to a specific power;

the reference is to the exercise of all or any authorised officers' powers under this chapter or a warrant, to the extent the powers are relevant.

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258 Reference to document includes reference to reproductions from electronic document

A reference in this chapter to a document includes a reference to an image or writing—

(a) produced from an electronic document; or

(b) not yet produced, but reasonably capable of being produced, from an electronic document, with or without the aid of another article or device.

Part 2 Entry to places by authorised officers

Division 1 Power to enter

259 General power to enter places

(1) An authorised officer may enter a place if—

(a) an occupier of the place consents under division 2 to the entry and section 267 has been complied with for the occupier; or

(b) it is a public place and the entry is made when it is open to the public; or

(c) the entry is authorised under a warrant and, if there is an occupier of the place, section 277 has been complied with for the occupier; or

(d) it is a place of business that is regulated under this Act and is—

(i) open for carrying on the business; or

(ii) otherwise open for entry; or

(iii) required under this Act to be open for inspection by an authorised officer; or

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(e) the entry is authorised under section 260, 261, 262, 263 or 264.

(2) For subsection (1)(d) and (e), entry to a place does not include entry to a part of the place where a person resides (a ***residence***) without the person's consent or a warrant.

(3) The following do not form part of a residence—

(a) a carport, other than a carport to which access is restricted;

(b) the area of a verandah or deck to which access is not restricted and no provision is made to restrict access;

(c) the area underneath the residence to which access is not restricted and no provision is made to restrict access;

(d) any other external part of the residence, including, for example, the residence's gutters;

(e) land around the residence.

(4) If the power to enter arose only because an occupier of the place consented to the entry, the power is subject to any conditions of the consent and ceases if the consent is withdrawn.

(5) If the power to enter is under a warrant, the power is subject to the terms of the warrant.

(6) The consent may provide consent for re-entry and is subject to the conditions of consent.

(7) If the power to re-enter is under a warrant, the re-entry is subject to the terms of the warrant.

(8) In this section—

regulated under this Act, for a place of business, means—

(a) the person who carries on business at the place holds, or is required to hold, an authority under this Act to carry on the business or a particular aspect of the business; or

(b) the place of business is, or is required to be, mentioned in an authority under this Act.

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260 Power to enter place to ascertain if biosecurity risk exists

(1) This section applies if an authorised officer reasonably believes there may be a biosecurity risk at a place.

(2) The authorised officer may, at reasonable times, enter the place to find out whether there is a biosecurity risk at the place.

Notes—

1 See, however, the restrictions on entry under section 259(2).

2 See section 269 for the procedure for entry under this section.

261 Power to enter place under biosecurity program

(1) This section applies to a place situated in an area to which a biosecurity program applies.

(2) However, this section does not apply to the carrying out of an aerial control measure for biosecurity matter under section 294 that is authorised by a biosecurity program in relation to a place.

(3) An authorised officer may, at reasonable times, enter the place to take any action authorised by the biosecurity program.

Notes—

1 See, however, the restrictions on entry under section 259(2).

2 See section 270 for the procedure for entry under this section.

262 Power to enter place to check compliance with biosecurity order

(1) This section applies if a person has been given a biosecurity order for a biosecurity risk at a place.

(2) An authorised officer may, at reasonable times, enter the place to check whether the order has been complied with.

Notes—

1 See, however, the restrictions on entry under section 259(2).

2 See section 270 for the procedure for entry under this section.

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263 Power to enter place to take steps if biosecurity order not complied with

(1) This section applies if—

(a) a person has been given a biosecurity order for a biosecurity risk at a place or because a biosecurity risk may happen at a place; and

(b) the biosecurity order requires the person to take steps at the place to remove or reduce the biosecurity risk or prevent the biosecurity risk from recurring; and

(c) the person has failed to take the steps as required by the order.

(2) The issuing authority by its employees or agents, or an authorised officer, may at reasonable times enter the place to take the steps stated in the order.

Notes—

1 See, however, the restrictions on entry under section 259(2).

2 See section 271 for the procedure for entry under this section.

264 Power to enter place to take action required under direction

(1) This section applies if—

(a) an authorised officer gives a person a direction under this Act other than under a biosecurity order; and

Example of a direction under this Act—

a direction under a biosecurity program, a biosecurity emergency order or a movement control order

(b) the person fails to take the action required under the direction.

(2) The issuing authority by its employees or agents, or an authorised officer, may at reasonable times enter the place the subject of the direction and take the action at the place that is required under the direction.

Notes—

1 See, however, the restrictions on entry under section 259(2).

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2 See section 271 for the procedure for entry under this section.

Division 2 Entry by consent

265 Application of div 2

This division applies if an authorised officer intends to ask an occupier of a place to consent to the authorised officer or another authorised officer entering the place under section 259(1)(a).

266 Incidental entry to ask for access

For the purpose of asking the occupier for the consent, the authorised officer may, without the occupier's consent or a warrant—

(a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or

(b) enter part of the place the authorised officer reasonably considers members of the public ordinarily are allowed to enter when they wish to contact an occupier of the place.

267 Matters authorised officer must tell occupier

Before asking for the consent, the authorised officer must give a reasonable explanation to the occupier—

(a) about the purpose of the entry, including the powers intended to be exercised; and

(b) that the occupier is not required to consent; and

(c) that the consent may be given subject to conditions and may be withdrawn at any time.

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268 Consent acknowledgement

(1) If the consent is given, the authorised officer may ask the occupier to sign an acknowledgement of the consent.

(2) The acknowledgement must state—

(a) the purpose of the entry, including the powers intended to be exercised; and

(b) the following has been explained to the occupier—

(i) the purpose of the entry, including the powers intended to be exercised;

(ii) that the occupier is not required to consent; and

(c) the occupier gives the authorised officer or another authorised officer consent to enter the place and exercise the powers; and

(d) the time and day the consent was given; and

(e) any conditions of the consent.

(3) If the occupier signs the acknowledgement, the authorised officer must immediately give a copy to the occupier.

(4) However, if it is impractical for the authorised officer to give the occupier a copy of the acknowledgement immediately, the authorised officer must give the copy as soon as practicable.

(5) If—

(a) an issue arises in a proceeding about whether the occupier consented to the entry; and

(b) an acknowledgement complying with subsection (2) for the entry is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

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Division 3 Entry for particular purposes

269 Entry of place under s 260

(1) This section applies to an authorised officer intending to enter a place under section 260.

(2) The authorised officer must, before entering the place, make a reasonable attempt to locate an occupier and obtain the occupier's consent to the entry.

Note—

See division 2.

(3) If the occupier refuses to consent to the entry, the authorised officer must not enter the place unless the entry is under a warrant.

(4) If the authorised officer is unable to locate an occupier after making a reasonable attempt to do so, the authorised officer may enter the place.

(5) If the authorised officer enters the place after being unable to locate an occupier, the authorised officer must leave a notice in a conspicuous position and in a reasonably secure way stating the date, time and purpose of the entry.

270 Entry of place under ss 261 and 262

(1) This section applies to an authorised officer intending to enter a place under section 261 or 262.

(2) The authorised officer must, before entering the place, make a reasonable attempt to locate an occupier and advise the occupier of the officer's intention to enter the place.

(3) The authorised officer may enter the place if the officer is unable to locate an occupier after making a reasonable attempt to do so.

(4) If the authorised officer finds an occupier present at the place, whether before or after entering the place, the officer must make reasonable attempts to—

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(a) produce the authorised officer's identity card for the occupier's inspection; and

(b) inform the occupier—

(i) of the reason for entering the place; and

(ii) that the authorised officer is authorised under this Act to enter the place without the permission of the occupier; and

(iii) if the entry relates to a biosecurity program—

(A) of any steps taken, or to be taken, under the biosecurity program; and

(B) if steps have been taken, or are to be taken—that it is an offence to do anything that interferes with a step taken or to be taken.

Note—

See, however, the restrictions on entry under section 259(2).

(5) If the authorised officer does not find an occupier present at the place, the authorised officer must leave a notice in a conspicuous position and in a reasonably secure way stating the date and time of the entry and information addressing the matters mentioned in subsection (4)(b).

271 Entry of place under ss 263 and 264

(1) This section applies to the issuing authority by its employees or agents, or an authorised officer, intending to enter a place under section 263 or 264.

(2) The person must, before entering the place, make a reasonable attempt to locate an occupier and obtain the occupier's consent to the entry.

Note—

See division 2.

(3) The person may enter the place if—

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(a) the person is unable to locate an occupier after making a reasonable attempt to do so; or

(b) the occupier refuses to consent to the entry.

(4) If, after the person enters the place under subsection (3)(a), the person finds an occupier present at the place, or if the occupier refuses to consent to the entry, the person must make reasonable attempts to—

(a) either—

(i) if the person is an employee or agent of the issuing authority—produce the issuing authority's written authority to enter the place, and sufficient evidence to identify the person as a person who may enter under the authority, for the occupier's inspection; or

(ii) if the person is an authorised officer—produce the authorised officer's identity card for the occupier's inspection; and

(b) inform the occupier—

(i) of the reason for entering the place; and

(ii) that the person is authorised under this Act to enter the place without the permission of the occupier.

Note—

See, however, the restrictions on entry under section 259(2).

(5) If the person does not find an occupier present at the place, the person must leave a notice in a conspicuous position and in a reasonably secure way stating the date, time and purpose of the entry.

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Division 4 Entry under warrant

Subdivision 1 Obtaining warrant

272 Application for warrant

(1) An authorised officer may apply to a magistrate for a warrant for a place.

(2) The authorised officer must prepare a written application that states the grounds on which the warrant is sought.

(3) The written application must be sworn.

(4) The magistrate may refuse to consider the application until the authorised officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

273 Issue of warrant

(1) The magistrate may issue a warrant for the place only under subsection (2) or (3).

(2) The magistrate may issue a warrant for the place if the magistrate is satisfied there are reasonable grounds for suspecting that—

(a) there is at the place, or will be at the place within the next 7 days, a particular thing or activity that may provide evidence of an offence against this Act; or

(b) there is a biosecurity risk at the place.

(3) Also, the magistrate may issue a warrant for the place for the purpose of the authorised officer's performance of the function mentioned in section 256(1)(a) or (b) at the place if—

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(a) the place is a place mentioned in section 259(1)(b) or (d) or a place to which section 259(1)(e) applies; and

(b) the magistrate is satisfied it is reasonably necessary that the authorised officer should have access to the place for the purpose of effectively performing the function at the place.

Example for paragraph (b)—

The magistrate may be satisfied under paragraph (b) if the authorised officer has made a reasonable attempt to perform the function at the place without a warrant, but because of obstruction has been unsuccessful.

(4) The warrant must state—

(a) the place to which the warrant applies; and

(b) that a stated authorised officer or any authorised officer may, with necessary and reasonable help and force—

(i) enter the place and any other place necessary for entry to the place; and

(ii) exercise the authorised officer's powers; and

(c) particulars of the offence, biosecurity risk or other circumstances that the magistrate considers appropriate; and

(d) if the warrant is issued under subsection (2), the name of the person suspected of having committed the offence or who caused the biosecurity risk or allowed the biosecurity risk to continue, unless the name is unknown or the magistrate considers it inappropriate to state the name; and

(e) the evidence that may be seized under the warrant; and

(f) whether the authorised officer may exercise powers under section 320; and

(g) if the authorised officer may exercise powers under section 320, the person, if any, who is to pay the costs incurred by the authorised officer in exercising the powers; and

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(h) the hours of the day or night when the place may be entered; and

(i) the magistrate's name; and

(j) the day and time of the warrant's issue; and

(k) except for a warrant allowing for re-entry of the place, the day, within 14 days after the warrant's issue, the warrant ends.

(5) If the warrant relates to a biosecurity risk, the warrant may also state that an authorised officer may re-enter the place to check compliance with a biosecurity order issued as a result of the authorised officer's entry of the place under the warrant.

(6) To the extent that the warrant allows for re-entry of the place, it ends on the earlier of the following days—

(a) the day that is 7 days after the end of the period stated in the biosecurity order for completing the steps stated in the order;

(b) the day stated in the warrant.

274 Electronic application

(1) An application under section 272 may be made by phone, fax, email, radio, videoconferencing or another form of electronic communication if the authorised officer reasonably considers it necessary because of—

(a) urgent circumstances; or

(b) other special circumstances, including, for example, the authorised officer's remote location.

(2) The application—

(a) may not be made before the authorised officer prepares the written application under section 272(2); but

(b) may be made before the written application is sworn.

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275 Additional procedure if electronic application

(1) For an application made under section 274, the magistrate may issue the warrant (the ***original warrant***) only if the magistrate is satisfied—

(a) it was necessary to make the application under section 274; and

(b) the way the application was made under section 274 was appropriate.

(2) After the magistrate issues the original warrant—

(a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the authorised officer, including, for example, by sending a copy by fax or email, the magistrate must immediately give a copy of the warrant to the authorised officer; or

(b) otherwise—

(i) the magistrate must tell the authorised officer the information mentioned in section 273(4); and

(ii) the authorised officer must complete a form of warrant including by writing on it the information mentioned in section 273(4) provided by the magistrate.

(3) The copy of the warrant mentioned in subsection (2)(a), or the form of warrant completed under subsection (2)(b) (in either case the ***duplicate warrant***), is a duplicate of, and as effectual as, the original warrant.

(4) The authorised officer must, at the first reasonable opportunity, send to the magistrate—

(a) the written application complying with section 272(2) and (3); and

(b) if the authorised officer completed a form of warrant under subsection (2)(b)—the completed form of warrant.

(5) The magistrate must keep the original warrant and, on receiving the documents under subsection (4)—

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(a) attach the documents to the original warrant; and

(b) give the original warrant and documents to the clerk of the court of the relevant magistrates court.

(6) Despite subsection (3), if—

(a) an issue arises in a proceeding about whether an exercise of a power was authorised by a warrant issued under this section; and

(b) the original warrant is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power.

(7) This section does not limit section 272.

(8) In this section—

relevant magistrates court, in relation to a magistrate, means the Magistrates Court that the magistrate constitutes under the *Magistrates Act 1991*.

276 Defect in relation to a warrant

(1) A warrant is not invalidated by a defect in—

(a) the warrant; or

(b) compliance with sections 272 to 274;

unless the defect affects the substance of the warrant in a material particular.

(2) In this section—

warrant includes a duplicate warrant mentioned in section 275(3).

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Subdivision 2 Entry procedure

277 Entry procedure

(1) This section applies if an authorised officer is intending to enter a place under a warrant issued under this division.

(2) Before entering the place, the authorised officer must do or make a reasonable attempt to do the following things—

(a) identify himself or herself to a person who is an occupier of the place and is present by producing the authorised officer's identity card or another document evidencing the appointment;

(b) give the person a copy of the warrant;

(c) tell the person the authorised officer is permitted by the warrant to enter the place;

(d) give the person an opportunity to allow the authorised officer immediate entry to the place without using force.

(3) However, the authorised officer need not comply with subsection (2) if the authorised officer believes on reasonable grounds that immediate entry to the place without compliance is required to ensure the execution of the warrant is not frustrated.

(4) In this section—

warrant includes a duplicate warrant mentioned in section 275(3).

Part 3 Emergency powers of inspectors

278 Application of pt 3

This part applies if an inspector is satisfied on reasonable grounds—

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(a) an activity is being carried out or there is biosecurity matter at a place, other than a place, or part of a place, used for residential purposes; and

(b) it is necessary to exercise powers under this part to avoid an imminent and significant biosecurity risk from the activity or biosecurity matter.

279 Power and procedure for entry

(1) The inspector may, without a warrant or the consent of the occupier of the place, enter the place.

(2) Before entering the place, the inspector must do or make a reasonable attempt to do the following things—

(a) comply with section 330(1);

(b) tell the occupier the inspector is permitted under this Act to enter the place.

(3) However, the inspector need not comply with subsection (2) if the inspector reasonably believes that immediate entry to the place is required to avoid an imminent and significant biosecurity risk.

280 Power in relation to activity or biosecurity matter

(1) The inspector may in relation to the activity or biosecurity matter mentioned in section 278, and to the extent reasonably necessary for managing the activity or matter—

(a) direct a person at the place to take stated reasonable steps within a stated reasonable period; or

(b) take reasonable steps; or

(c) authorise another person to take reasonable steps.

(2) Without limiting subsection (1), reasonable steps may include steps requiring any person—

(a) to remain at the place or not to enter the place; and

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(b) to clean or disinfect the place, a structure or another thing; and

(c) to destroy the biosecurity matter or remove the biosecurity matter to another place to destroy it; and

(d) to destroy a carrier of the biosecurity matter or remove the carrier to another place to destroy it; and

(e) to dispose of the biosecurity matter other than by destroying it; and

(f) to do something that assists with a step mentioned in paragraphs (b) to (e); and

(g) to stop doing something that may interfere with a step mentioned in paragraphs (b) to (e).

(3) The direction may be given orally or by notice.

(4) However, if the direction is given orally, the inspector must as soon as practicable confirm the direction by notice given to the person.

(5) If the inspector takes the steps, the inspector also may exercise any of the powers of an inspector under this chapter.

281 How power may be exercised

(1) The inspector may exercise the powers mentioned in sections 279(1) and 280(1)(b) and (5) (the ***emergency powers***) with the help, and using the force, that is necessary and reasonable in the circumstances.

(2) In exercising or attempting to exercise emergency powers, an inspector must take all reasonable steps to ensure the inspector causes as little inconvenience to any person at the place, and does as little damage, as is practicable in the circumstances.

(3) If an inspector authorises a person to take steps under section 280(1)(c)—

(a) the person may exercise the powers mentioned in section 280(5); and

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(b) the inspector must inform the person—

(i) of the steps the person is authorised to take; and

(ii) of the person's powers under this part.

282 Requirement to give chief executive notice

An inspector exercising powers under this part must as soon as practicable after exercising the powers give the chief executive notice of the fact.

283 Duration of emergency powers

(1) An inspector exercising powers under this part at a place may exercise the powers until the first of the following happens—

(a) the imminent and significant biosecurity risk from the activity being carried out, or from the biosecurity matter, at the place is avoided;

(b) the end of the following period after the inspector first exercises the powers—

(i) 96 hours;

(ii) a longer period, of not more than 168 hours, if approved by the chief executive under subsection (2).

(2) The chief executive may approve the longer period for the exercise of the powers at the place if—

(a) an inspector exercising the powers makes a written request to the chief executive to approve the longer period and gives reasons for the request; and

(b) the chief executive, having regard to the request, is satisfied the longer period is necessary for exercising the powers.

(3) If the chief executive approves a longer period for the exercise of the powers at the place, the chief executive must—

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(a) give the inspector the approval in writing, including reasons for the approval; and

(b) if an entitled person asks for a copy of the approval—give the person a copy of the approval.

(4) In this section—

entitled person means—

(a) an occupier of the place; or

(b) a person who is directed or authorised to take reasonable steps at the place under section 280(1)(a) or (c).

284 Failure to comply with inspector's directions in emergency

A person to whom a direction is given under 280(1)(a) must comply with the direction, unless the person has a reasonable excuse.

Maximum penalty—2,000 penalty units.

285 Inspector's powers not affected

This part does not limit any power an inspector has apart from the part.

Part 4 Other authorised officers' powers and related matters

Division 1 Stopping or moving vehicles

286 Application of div 1

This division applies if an authorised officer reasonably suspects, or is aware, that—

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(a) a thing in or on a vehicle may provide evidence of the commission of an offence against this Act; or

(b) a vehicle, or a thing in or on the vehicle, may pose a biosecurity risk.

287 Power to stop or move

(1) If the vehicle is moving, the authorised officer may, to exercise his or her powers, signal or otherwise direct the person in control of the vehicle to stop the vehicle and to bring the vehicle to, and keep it at, a convenient place within a reasonable distance to allow the authorised officer to exercise the powers.

(2) If the vehicle is stopped, the authorised officer may direct the person in control of the vehicle—

(a) not to move it until the authorised officer has exercised the authorised officer's powers; or

(b) to move the vehicle to, and keep it at, a stated reasonable place to allow the authorised officer to exercise the powers.

(3) When giving the direction under subsection (2), the authorised officer must give the person in control an offence warning for the direction.

288 Identification requirements if vehicle moving

(1) This section applies if the authorised officer proposes to give a direction under section 287(1) and the vehicle is moving.

(2) The authorised officer must clearly identify himself or herself as an authorised officer exercising the authorised officer's powers.

Examples—

1 If the authorised officer is in a moving vehicle, he or she may use a loudhailer to identify himself or herself as an authorised officer exercising powers.

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2 If the authorised officer is standing at the side of the road, he or she may use a sign to identify himself or herself as an authorised officer exercising powers.

(3) When the vehicle stops, the authorised officer must—

(a) have with him or her the authorised officer's identity card; and

(b) immediately produce the identity card for the inspection of the person in control of the vehicle.

(4) Subsection (3) applies despite section 330.

289 Failure to comply with direction

(1) The person in control of the vehicle must comply with a direction under section 287 unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) It is a reasonable excuse for the person not to comply with a direction if—

(a) the vehicle was moving and the authorised officer did not comply with section 288; or

(b) to comply immediately would have endangered someone else or caused loss or damage to property, and the person complies as soon as it is practicable to do so.

(3) Subsection (2) does not limit subsection (1).

(4) A person does not commit an offence against subsection (1) if—

(a) the direction the person fails to comply with is given under section 287(2); and

(b) the person is not given an offence warning for the direction.

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Division 2 Stopping or moving travelling animals

290 Application of div 2

This division applies if an inspector reasonably suspects, or is aware, that an animal travelling on a stock route, or on a reserve for the travelling of animals in association with being travelled on a stock route, may pose a biosecurity risk.

291 Power to stop or move

(1) If the animal is travelling on the stock route, the inspector may, to exercise his or her powers, signal or otherwise direct the person driving the animal—

(a) to stop the animal; and

(b) either—

(i) to drive the animal to, and keep it at, a convenient place within a reasonable distance to allow the inspector to exercise the powers; or

(ii) to return the animal to the place where the animal is kept to allow the inspector to exercise the powers.

(2) If the animal is on a reserve for travelling stock, the inspector may direct the person in control of the animal—

(a) not to move it until the inspector has exercised the inspector's powers; or

(b) to drive the animal to, and keep it at, a stated reasonable place to allow the inspector to exercise the powers; or

(c) to return the animal to the place where the animal is kept to allow the inspector to exercise the powers.

(3) When giving the direction under subsection (2), the inspector must give the person in control an offence warning for the direction.

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292 Identification requirements if animal travelling on stock route

(1) This section applies if the inspector proposes to give a direction under section 291(1) and the animal is travelling on the stock route.

(2) The inspector must clearly identify himself or herself to the person driving the animal as an inspector exercising the inspector's powers.

(3) When the person driving the animal stops the animal, the inspector must—

(a) have with him or her the inspector's identity card; and

(b) immediately produce the identity card for the inspection of the person driving the animal.

(4) Subsection (3) applies despite section 330.

293 Failure to comply with direction

(1) The person driving the animal or in control of the animal must comply with a direction under section 291 unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) It is a reasonable excuse for the person not to comply with a direction if—

(a) the animal was travelling on the stock route and the inspector did not comply with section 292; or

(b) to comply immediately would have endangered someone else or caused loss or damage to property, and the person complies as soon as it is practicable to do so.

(3) Subsection (2) does not limit subsection (1).

(4) A person does not commit an offence against subsection (1) if—

(a) the direction the person fails to comply with is given under section 291(2); and

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(b) the person is not given an offence warning for the direction.

Division 3 Aerial control measures

294 Power to carry out aerial control measures under biosecurity program

(1) This section applies if a biosecurity program authorises the carrying out of an aerial control measure for biosecurity matter.

(2) An authorised officer may carry out, or direct another person to carry out, the aerial control measure for the biosecurity matter in relation to a place.

(3) The authorised officer must give notice of the proposed aerial control measure for the biosecurity matter to an occupier of the place at least 48 hours before carrying out the measure (the ***notice period***) unless—

(a) the measure will be carried out from a height of more than 350 feet above the place; or

Editor's note—

350 feet is approximately 110m

(b) it would be impractical to give the notice because the measure will not be effective in controlling the biosecurity matter after the end of the notice period.

Example for paragraph (b)—

A biosecurity program authorises spraying pesticide on locusts but a swarm of locusts at a place is likely to move on before notice can be given to an occupier of the place.

Note—

Another law may require notice to be given to, or consent to be obtained from, an occupier of a place in the circumstances to which this section applies.

(4) However, if subsection (3)(b) applies, the authorised officer must make reasonable attempts to advise an occupier of the

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place about the aerial control measure before the measure is carried out.

(5) A notice under subsection (3) must include—

(a) a description of the biosecurity program authorising the aerial control measure; and

(b) a description of the aerial control measure; and

(c) the period during which the aerial control measure will be carried out.

(6) In this section—

aerial control measure, for biosecurity matter, means an activity, done from the air by an airborne machine or a person in an aircraft, to achieve a purpose of a biosecurity program and includes the following—

(a) surveying and monitoring the biosecurity matter;

(b) distributing an agricultural chemical to control the biosecurity matter.

airborne machine means a machine that can operate in air without carrying a person to pilot the machine.

Division 4 General powers of authorised officers after entering places

295 Application of div 4

(1) The powers under this division may be exercised if an authorised officer enters a place under—

(a) section 259(1)(a); or

(b) section 259(1)(c); or

(c) section 259(1)(d); or

(d) section 260; or

(e) section 261; or

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(f) section 262; or

(g) section 263; or

(h) section 264; or

(i) part 3; or

(j) chapter 6.

(2) However, if the authorised officer enters under section 259(1)(a) or (c), the powers under this division are subject to any conditions of the consent or terms of the warrant.

296 General powers

(1) The authorised officer may do any of the following (each a ***general power***)—

(a) search any part of the place;

(b) inspect, examine or film any part of the place or anything at the place;

(c) take for examination a thing, or a sample of or from a thing, at the place;

(d) place an identifying mark in or on anything at the place;

Example—

insert a microchip in a horse's neck to indicate that the horse has equine influenza

(e) place a sign or notice at the place;

Example of a sign or notice—

a notice stating the area is subject to a biosecurity emergency order

(f) produce an image or writing at the place from an electronic document or, to the extent it is not practicable, take a thing containing an electronic document to another place to produce an image or writing;

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(g) take to, into or onto the place and use any person, detection animal, equipment and materials the authorised officer reasonably requires for exercising the authorised officer's powers under this division;

(h) destroy biosecurity matter or a carrier if—

(i) the authorised officer believes on reasonable grounds the biosecurity matter or carrier poses a significant biosecurity risk; and

(ii) the owner of the biosecurity matter or carrier consents to its destruction;

(i) remain at the place for the time necessary to achieve the purpose of the entry.

(2) The authorised officer may take a necessary step to allow the exercise of a general power.

(3) If the authorised officer takes a document from the place to copy it, the authorised officer must copy and return the document to the place as soon as practicable.

(4) If the authorised officer takes from the place an article or device reasonably capable of producing a document from an electronic document to produce the document, the authorised officer must produce the document and return the article or device to the place as soon as practicable.

(5) In this section—

examine includes analyse, test, account, measure, weigh, grade, gauge and identify.

film includes photograph, videotape and record an image in another way.

inspect, a thing, includes open the thing and examine its contents.

297 Power to require reasonable help

(1) The authorised officer may make a requirement (a ***help requirement***) of an occupier of the place or a person at the

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place to give the authorised officer reasonable help to exercise a general power, including, for example, to produce a document or to give information.

(2) When making the help requirement, the authorised officer must give the person an offence warning for the requirement.

298 Offence to contravene help requirement

(1) A person of whom a help requirement has been made must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) It is a reasonable excuse for an individual not to comply with a help requirement if complying might tend to incriminate the individual or expose the individual to a penalty.

(3) However, subsection (2) does not apply if a document or information the subject of the help requirement is required to be held or kept by the defendant under this Act.

Note—

See, however, section 328.

Division 5 Seizure by authorised officers and forfeiture

Subdivision 1 Power to seize

299 Seizing evidence at a place that may be entered without consent or warrant

(1) An authorised officer who enters a place the authorised officer may enter under this Act without the consent of an occupier of the place and without a warrant under section 273(2) may seize a thing at the place if the authorised officer reasonably believes the thing is evidence of an offence against this Act.

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(2) Subsection (1) applies even if the entry is under a warrant issued under section 273(3).

300 Seizing evidence at a place that may be entered only with consent or warrant

(1) This section applies if—

(a) an authorised officer is authorised to enter a place only with the consent of an occupier of the place or a warrant; and

(b) the authorised officer enters the place after obtaining the consent or under a warrant issued under section 273(2).

(2) If the authorised officer enters the place with the occupier's consent, the authorised officer may seize a thing at the place only if—

(a) the authorised officer reasonably believes the thing is evidence of an offence against this Act; and

(b) seizure of the thing is consistent with the purpose of entry as explained to the occupier when asking for the occupier's consent.

(3) If the authorised officer enters the place under a warrant issued under section 273(2), the authorised officer may seize the evidence for which the warrant was issued.

(4) The authorised officer also may seize anything else at the place if the authorised officer reasonably believes—

(a) the thing is evidence of an offence against this Act; and

(b) the seizure is necessary to prevent the thing being—

(i) hidden, lost or destroyed; or

(ii) used to continue, or repeat, the offence.

(5) The authorised officer may also seize a thing at the place if the authorised officer reasonably believes it has just been used in committing an offence against this Act.

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301 Seizure of property subject to security

(1) An authorised officer may seize a thing, and exercise powers relating to the thing, despite a lien or other security over it claimed by another person.

(2) However, the seizure does not affect the other person's claim to the lien or other security against a person other than the authorised officer or a person acting for the officer.

Subdivision 2 Powers to support seizure

302 Requirement of person in control of thing to be seized

(1) To enable a thing to be seized, an authorised officer may require the person in control of it—

(a) to take it to a stated reasonable place by a stated reasonable time; and

(b) if necessary, to remain in control of it at the stated place for a stated reasonable time.

(2) The requirement—

(a) must be made by notice; or

(b) if for any reason it is not practicable to give a notice, may be made orally and confirmed by notice as soon as practicable.

303 Offence to contravene seizure requirement

A person of whom a requirement is made under section 302 must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

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304 Power to secure seized thing

(1) Having seized a thing under this division, an authorised officer may—

(a) leave it at the place where it was seized (the ***place of seizure***) and take reasonable action to restrict access to it; or

(b) move it from the place of seizure.

(2) For subsection (1)(a), the authorised officer may, for example—

(a) seal the thing, or the entrance to the place of seizure, and mark the thing or place to show access to the thing or place is restricted; or

(b) for equipment—make it inoperable; or

Example—

make it inoperable by dismantling it or removing a component without which the equipment can not be used

(c) require a person the authorised officer reasonably believes is in control of the place or thing to do an act mentioned in paragraph (a) or (b) or anything else an inspector could do under subsection (1)(a).

305 Offence to contravene other seizure requirement

A person must comply with a requirement made of the person under section 304(2)(c) unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

306 Offence to interfere

(1) If access to a seized thing is restricted under section 304, a person must not tamper with the thing or with anything used to restrict access to the thing without—

(a) an authorised officer's approval; or

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(b) a reasonable excuse.

Maximum penalty—100 penalty units.

(2) If access to a place is restricted under section 304, a person must not enter the place in contravention of the restriction or tamper with anything used to restrict access to the place without—

(a) an authorised officer's approval; or

(b) a reasonable excuse.

Maximum penalty—100 penalty units.

Subdivision 3 Safeguards for seized things

307 Receipt and information notice for seized thing

(1) This section applies if an authorised officer seizes anything under this division unless—

(a) the authorised officer reasonably believes there is no-one apparently in possession of the thing or the thing has been abandoned; or

(b) because of the condition, nature and value of the thing it would be unreasonable to require the authorised officer to comply with this section.

(2) The authorised officer must, as soon as practicable after seizing the thing, give an owner or person in control of the thing before it was seized—

(a) a receipt for the thing that generally describes the thing and its condition; and

(b) an information notice for the decision to seize it.

(3) However, if an owner or person from whom the thing is seized is not present when it is seized, the receipt and information notice may be given by leaving them in a conspicuous position and in a reasonably secure way at the place at which the thing is seized.

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(4) The receipt and information notice may—

(a) be given in the same document; and

(b) relate to more than 1 seized thing.

(5) The authorised officer may delay giving the receipt and information notice if the authorised officer reasonably suspects giving them may frustrate or otherwise hinder an investigation by the authorised officer under this Act.

(6) However, the delay may be only for so long as the authorised officer continues to have the reasonable suspicion and remains in the vicinity of the place at which the thing was seized to keep it under observation.

308 Access to seized thing

(1) Until a seized thing is forfeited or returned, the authorised officer who seized the thing must allow an owner of the thing—

(a) to inspect it at any reasonable time and from time to time; and

(b) if it is a document—to copy it.

(2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

(3) The inspection or copying must be allowed free of charge.

309 Return of seized thing

(1) This section applies if a seized thing has some intrinsic value and is not—

(a) forfeited or transferred under subdivision 4 or 5; or

(b) subject to a disposal order under division 6.

(2) The authorised officer must return the seized thing to an owner—

(a) for a thing seized under section 299 or 300—

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(i) generally—at the end of 6 months after the seizure; or

(ii) if a proceeding for an offence involving the thing is started within the 6 months, at the end of the proceeding and any appeal from the proceeding; or

(b) for a thing seized under section 320, if—

(i) the thing ceases to be a biosecurity risk; or

(ii) the authorised officer is satisfied the return of the thing is unlikely to result in the recurrence of the biosecurity risk in relation to which it was seized.

(3) Despite subsection (2), if the thing was seized as evidence, the authorised officer must return the thing seized to an owner as soon as practicable after the authorised officer is satisfied—

(a) its continued retention as evidence is no longer required; and

(b) its continued retention is not necessary to prevent it being used to continue, or repeat, an offence against this Act; and

(c) it is lawful for the owner to possess it.

(4) Nothing in this section affects a lien or other security over the seized thing.

Subdivision 4 Forfeiture

310 Forfeiture by administrator decision

(1) The administrator for a relevant entity may decide a seized thing is forfeited to the relevant entity for the seized thing if an authorised officer—

(a) after making reasonable inquiries, can not find an owner; or

(b) after making reasonable efforts, can not return it to an owner; or

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(c) for a thing seized under section 320—

(i) reasonably considers that, because of the thing's inherent nature or condition, the return of the thing is likely to result in a recurrence of the biosecurity risk in relation to which the thing was seized; or

(ii) at the end of 6 months, reasonably believes that the return of the thing is likely to result in a recurrence of the biosecurity risk in relation to which the thing was seized; or

(d) reasonably believes it is necessary to keep the thing to prevent it being used to commit the offence for which it was seized.

(2) However, the authorised officer is not required to—

(a) make inquiries if it would be unreasonable to make inquiries to find an owner; or

(b) make efforts if it would be unreasonable to make efforts to return the thing to an owner.

Example for paragraph (b)—

the owner of the thing has migrated to another country

(3) Regard must be had to the thing's condition, nature and value in deciding—

(a) whether it is reasonable to make inquiries or efforts; and

(b) if inquiries or efforts are made—what inquiries or efforts, including the period over which they are made, are reasonable.

(4) The ***administrator*** for a relevant entity is—

(a) if the relevant entity is the State—the chief executive; or

(b) if the relevant entity is a local government—the chief executive officer of the local government; or

(c) if the relevant entity is an invasive animal board—the chairperson of the board.

(5) The ***relevant entity*** for a seized thing is—

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(a) if the thing was seized by an authorised officer appointed by the chief executive—the State; or

(b) if the thing was seized by an authorised officer appointed by the chief executive officer of a local government—the local government; or

(c) if the thing was seized by an authorised officer appointed by 2 or more chief executive officers—the local government for whom the authorised officer was performing his or her functions at the time the thing was seized; or

(d) if the thing was seized by an authorised officer appointed by an invasive animal board—the board.

311 Forfeiture by chief executive decision

The chief executive may decide a seized thing is forfeited to the State if—

(a) all of the following apply—

(i) an inspector believes a seized thing can be changed to make it comply with this Act;

Example of a seized thing—

a bag of seed for sowing containing weed seeds that can be separated and removed from the seed

(ii) the inspector requires an owner of the thing to do what is reasonable within a stated reasonable time to make it comply;

(iii) the owner does not comply with the requirement; or

(b) an inspector believes, on reasonable grounds—

(i) a seized thing can not be changed to make it comply with this Act; and

Example of a seized thing—

a bag of seed for sowing containing weed seeds that can not be separated and removed from the seed

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(ii) it is necessary to retain it to prevent its use in committing an offence against this Act.

312 Information notice for forfeiture decision

(1) This section applies if—

(a) the administrator for the relevant entity decides under section 310(1) to forfeit a thing; or

(b) the chief executive decides under section 311 to forfeit a thing.

(2) The administrator or chief executive must as soon as practicable give a person who owned the thing immediately before the forfeiture (the ***former owner***) an information notice for the decision.

(3) If the seized thing is forfeited under section 310(1)(a) or (b), the information notice may be given by leaving it at the place where the thing was seized, in a conspicuous position and in a reasonably secure way.

(4) The information notice must state that the former owner may apply for a stay of the decision if he or she appeals against the decision.

(5) However, subsections (1) to (3) do not apply if—

(a) the decision was made under section 310(1)(a) or (b); and

(b) the place where the thing was seized is—

(i) a public place; or

(ii) a place where the notice is unlikely to be read by the former owner.

313 Forfeiture on conviction

(1) On the conviction of a person for an offence against this Act, the court may order the forfeiture to the State or a local government of—

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(a) anything used to commit the offence; or

(b) anything else the subject of the offence.

(2) The court may make the order—

(a) whether or not the thing has been seized; and

(b) if the thing has been seized—whether or not the thing has been returned to the former owner of the thing.

(3) The court may make any order to enforce the forfeiture it considers appropriate.

(4) This section does not limit the court's powers under another law.

314 Procedure and powers for making forfeiture order

(1) A forfeiture order may be made on a conviction on the court's initiative or on an application by the prosecution.

(2) In deciding whether to make a forfeiture order for a thing, the court—

(a) may require notice to be given to anyone the court considers appropriate, including, for example, any person who may have any property in the thing; and

(b) must hear any submissions that any person claiming to have any property in the thing may wish to make.

Subdivision 5 Dealing with property forfeited or transferred to relevant entity or the State

315 When thing becomes property of relevant entity

A thing becomes the property of the relevant entity for the thing if the thing is forfeited to the relevant entity under section 310(1).

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316 When thing becomes property of the State or local government

(1) A thing becomes the property of the State if—

(a) the chief executive decides the thing is forfeited to the State under section 311; or

(b) the thing is forfeited to the State under section 313; or

(c) the owner of the thing and the State agree, in writing, to the transfer of the ownership of the thing to the State.

(2) A thing becomes the property of a local government if the thing is forfeited to the local government under section 313.

Note—

A thing may also become the property of the State or a local government under section 315.

317 How property may be dealt with

(1) This section applies if—

(a) under section 315, a thing becomes the property of the relevant entity for the thing; or

(b) under section 316, a thing becomes the property of the State or a local government.

(2) The administrator for the relevant entity, the chief executive or the chief executive officer of the local government (each the ***relevant administrator***) may deal with the thing as the relevant administrator considers appropriate, including, for example, by destroying it or giving it away.

(3) The relevant administrator must not deal with the thing in a way that could prejudice the outcome of an appeal against the forfeiture under this Act.

(4) If the relevant administrator sells the thing, the administrator may, after deducting the costs of the sale, return the proceeds of the sale to the former owner of the thing.

(5) This section is subject to any disposal order made for the thing.

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318 Power of destruction

An authorised officer may destroy a thing seized under this division if—

(a) the thing consists wholly or partly of contaminated or decomposed matter; or

(b) the authorised officer reasonably believes the thing poses an immediate biosecurity risk.

Division 6 Disposal orders

319 Disposal order

(1) This section applies if a person is convicted of an offence against this Act.

(2) The court may make an order (a ***disposal order***), on its own initiative or on an application by the prosecution, for the disposal of any of the following things owned by the person—

(a) anything that was the subject of, or used to commit, the offence;

(b) another thing the court considers is likely to be used by the person or another person in committing a further offence against this Act.

(3) The court may make a disposal order for a thing—

(a) whether or not it has been seized under this Act; and

(b) if the thing has been seized—whether or not it has been returned to the former owner.

(4) In deciding whether to make a disposal order for a thing, the court—

(a) may require notice to be given to anyone the court considers appropriate, including, for example, any person who may have any property in the thing; and

(b) must hear any submissions that any person claiming to have any property in the thing may wish to make.

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(5) The court may make any order to enforce the disposal order that it considers appropriate.

(6) This section does not limit the court's powers under another law.

Division 7 Power to remove or reduce biosecurity risk under a warrant

320 Power to remove or reduce biosecurity risk after entering place

(1) This section applies if—

(a) an authorised officer enters a place after obtaining a warrant; and

(b) the warrant authorises the authorised officer to exercise powers in relation to a biosecurity risk.

(2) The authorised officer may take the steps necessary in the circumstances to remove or reduce the biosecurity risk stated in the warrant, or to prevent the biosecurity risk from recurring, including seizing a thing.

Division 8 Other information-obtaining powers of authorised officers

321 Power to require name and address

(1) This section applies if an authorised officer—

(a) finds a person committing an offence against this Act; or

(b) finds a person in circumstances that lead the authorised officer to reasonably suspect the person—

(i) has just committed an offence against this Act; or

(ii) is responsible for a biosecurity risk; or

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(c) has information that leads the authorised officer to reasonably suspect a person—

(i) has just committed an offence against this Act; or

(ii) is responsible for a biosecurity risk.

(2) The authorised officer may require the person to state the person's name and residential address.

(3) The authorised officer may also require the person to give evidence of the correctness of the stated name or address if, in the circumstances, it would be reasonable to expect the person to—

(a) be in possession of evidence of the correctness of the stated name or address; or

(b) otherwise be able to give the evidence.

(4) When making a personal details requirement, the authorised officer must give the person an offence warning for the requirement.

(5) A requirement under this section is a ***personal details requirement***.

322 Offence to contravene personal details requirement

(1) A person of whom a personal details requirement is made must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) A person may not be convicted of an offence against subsection (1) unless the person is found guilty of the offence, or the court decides the person is responsible for the biosecurity risk, in relation to which the personal details requirement was made.

323 Power to require production of documents

(1) An authorised officer may require a person to make available for inspection by an authorised officer, or produce to the

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authorised officer for inspection, at a reasonable time and place nominated by the authorised officer—

(a) a document issued to the person under this Act; or

(b) a document required to be kept by the person under this Act; or

(c) if a document or information required to be kept by the person under this Act is stored or recorded by means of a device—a document that is a clear written reproduction of the stored or recorded document or information.

(2) A requirement under subsection (1) is a ***document production requirement***.

(3) For an electronic document, compliance with the document production requirement requires the making available or production of a clear written reproduction of the electronic document.

(4) The authorised officer may keep the document to copy it.

(5) If the authorised officer copies the document, or an entry in the document, the authorised officer may require the person responsible for keeping the document to certify the copy as a true copy of the document or entry.

(6) A requirement under subsection (5) is a ***document certification requirement***.

(7) The authorised officer must return the document to the person as soon as practicable after copying it.

(8) However, if a document certification requirement is made of a person, the authorised officer may keep the document until the person complies with the requirement.

324 Offence to contravene document production requirement

(1) A person of whom a document production requirement is made must comply with the requirement unless the person has a reasonable excuse.

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Maximum penalty—50 penalty units.

(2) It is not a reasonable excuse for a person to fail to comply with a document production requirement on the basis that complying with the requirement might tend to incriminate the person or expose the person to a penalty.

Note—

See, however, section 328.

(3) The authorised officer must inform the person, in a way that is reasonable in the circumstances—

(a) that the person must comply with the document production requirement even though complying might tend to incriminate the person or expose the person to a penalty; and

(b) that, under section 328, there is a limited immunity against the future use of the information or document given in compliance with the requirement.

(4) If the person fails to comply with the document production requirement when the authorised officer has failed to comply with subsection (3), the person can not be convicted of the offence against subsection (1).

(5) If a court convicts a person of an offence against subsection (1), the court may, as well as imposing a penalty for the offence, order the person to comply with the document production requirement.

325 Offence to contravene document certification requirement

(1) A person of whom a document certification requirement has been made must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) It is not a reasonable excuse for a person to fail to comply with a document certification requirement on the basis that

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complying with the requirement might tend to incriminate the person or expose the person to a penalty.

Note—

See, however, section 328.

(3) The authorised officer must inform the person, in a way that is reasonable in the circumstances—

(a) that the person must comply with the document certification requirement even though complying might tend to incriminate the person or expose the person to a penalty; and

(b) that, under section 328, there is a limited immunity against the future use of the information or document given in compliance with the requirement.

(4) If the person fails to comply with the document certification requirement when the authorised officer has failed to comply with subsection (3), the person can not be convicted of the offence against subsection (1).

326 Power to require information

(1) This section applies if an authorised officer reasonably believes—

(a) an offence against this Act has been committed; and

(b) a person may be able to give information about the offence.

(2) The authorised officer may, by notice given to the person, require the person to give the authorised officer information about the offence at a stated reasonable time and place.

(3) A requirement under subsection (2) is an ***information requirement***.

(4) For information that is an electronic document, compliance with the information requirement requires the giving of a clear image or written version of the electronic document.

(5) In this section—

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information includes a document.

327 Offence to contravene information requirement

(1) A person of whom an information requirement is made must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) It is a reasonable excuse for an individual not to give the information if giving the information might tend to incriminate the individual or expose the individual to a penalty.

Division 9 Immunity for particular compliance

328 Evidential immunity for individuals complying with particular requirements

(1) Subsection (2) applies if an individual gives or produces information or a document to an authorised officer under section 297, 323 or 326.

(2) Evidence of the information or document, and other evidence directly or indirectly derived from the information or document, is not admissible against the individual in any proceeding to the extent it tends to incriminate the individual, or expose the individual to a penalty, in the proceeding.

(3) Subsection (2) does not apply to a proceeding about the false or misleading nature of the information or anything in the document or in which the false or misleading nature of the information or document is relevant evidence.

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Part 5 Provisions relating to designated officers

Division 1 Identity cards

329 Issue of identity card

(1) The administering executive must issue an identity card to each designated officer.

(2) The identity card must—

(a) contain a recent photo of the designated officer; and

(b) contain a copy of the officer's signature; and

(c) identify the role of the officer under this Act; and

(d) state an expiry date for the card.

(3) However, the administering executive is not required to issue an identity card to a person if—

(a) the person has been appointed under part 1, division 1, 2 or 3; and

(b) it is not practicable, in the circumstances, to issue the identity card because the person is required to implement an immediate response to a biosecurity emergency order.

(4) Also, the identity card issued to the person because of the office ordinarily held by the person, or an identity card that the person otherwise holds, is taken to be the identity card issued to the person as a designated officer provided the identity card contains the information mentioned in subsection (2)(a), (b) and (d).

(5) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

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330 Production or display of identity card

(1) In exercising a power in relation to a person in the person's presence, a designated officer must—

(a) produce the officer's identity card for the person's inspection before exercising the power; or

(b) have the identity card displayed so it is clearly visible to the person when exercising the power.

(2) However, if it is not practicable to comply with subsection (1), the designated officer must produce the identity card for the person's inspection at the first reasonable opportunity.

(3) For subsection (1), a designated officer who is an authorised officer does not exercise a power in relation to a person only because the officer has entered a place as mentioned in section 259(1)(b) or (d).

331 Return of identity card

If the office of a person as a designated officer ends, the person must return the person's identity card to the administering executive within 21 days after the office ends unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

Division 2 Damage

332 Duty to avoid inconvenience and minimise damage

In exercising a power, a designated officer must take all reasonable steps to cause as little inconvenience, and do as little damage, as possible.

Note—

See also section 334.

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333 Notice of damage

(1) This section applies if—

(a) a designated officer exercises, or purports to exercise, a power under this Act, other than a biosecurity response; and

(b) in exercising, or purporting to exercise the power, any 1 or more of the following persons damages something—

(i) the designated officer;

(ii) a person (an ***assistant***) acting under the direction or authority of the designated officer;

(iii) a detection animal used by the designated officer or assistant.

(2) However, this section does not apply to damage the designated officer reasonably considers is trivial or if the officer reasonably believes—

(a) there is no-one apparently in possession of the thing; or

(b) the thing has been abandoned.

(3) The designated officer must give notice of the damage to the person who appears to the officer to be an owner, or person in control, of the thing.

(4) However, if for any reason it is not practicable to comply with subsection (3), the designated officer must—

(a) leave the notice at the place where the damage happened; and

(b) ensure it is left in a conspicuous position and in a reasonably secure way.

(5) The designated officer may delay complying with subsection (3) or (4) if the officer reasonably suspects complying with the subsection may frustrate or otherwise hinder the performance of the officer's functions.

(6) The delay may be only for so long as the designated officer continues to have the reasonable suspicion and remains in the vicinity of the place.

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(7) If the designated officer believes the damage was caused by a latent defect in the thing or other circumstances beyond the control of the officer or the assistant, the officer may state the belief in the notice.

(8) The notice must state—

(a) particulars of the damage; and

(b) that the person who suffered the damage may claim compensation under section 334.

Division 3 Compensation

334 Compensation

(1) A person may claim compensation from the following if the person incurs loss because of the exercise, or purported exercise, of a power by a designated officer, including a loss arising from compliance with a requirement made of the person under this Act—

(a) if the designated officer was appointed by the chief executive—the State;

(b) if the designated officer was appointed by the chief executive officer of a local government—the local government;

(c) if the designated officer was appointed by 2 or more chief executive officers—the local government for whom the designated officer was exercising the power;

(d) if the designated officer was appointed by an invasive animal board—the board.

(2) However, subsection (1)(a) applies only to loss arising from an accidental, negligent or unlawful act or omission.

(3) Also, subsection (1) does not include—

(a) loss arising from a lawful seizure or a lawful forfeiture; or

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(b) loss arising from a biosecurity response.

(4) The compensation may be claimed and ordered in a proceeding—

(a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or

(b) for an alleged offence against this Act the investigation of which gave rise to the claim for compensation.

(5) A court may order the payment of compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.

(6) In considering whether it is just to order compensation, the court must have regard to any relevant biosecurity offence committed by the claimant.

(7) A regulation may prescribe other matters that may, or must, be taken into account by the court when considering whether it is just to order compensation.

(8) Section 332 does not provide for a statutory right of compensation other than is provided by this section.

(9) In this section—

exercise, of a power, by a designated officer includes—

(a) the exercise of a power for the officer; and

(b) the purported exercise of a power by or for the officer.

loss includes costs and damage.

Division 4 Other offences relating to designated officers

335 Giving designated officer false or misleading information

(1) A person must not, in relation to the administration of this Act, give a designated officer information, or a document containing information, that the person knows is false or misleading in a material particular.

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Maximum penalty—200 penalty units.

(2) Subsection (1) applies to information or a document given in relation to the administration of this Act whether or not the information or document was given in response to a specific power under this Act.

336 Obstructing designated officer

(1) A person must not obstruct a designated officer, or another person or a detection animal helping a designated officer, exercising a power under this Act unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

(2) If a person has obstructed a designated officer, or another person or a detection animal helping a designated officer, and the officer decides to proceed with the exercise of the power, the officer must warn the person that—

(a) it is an offence to cause an obstruction unless the person has a reasonable excuse; and

(b) the officer considers the person's conduct an obstruction.

337 Impersonating designated officer

A person must not impersonate a designated officer.

Maximum penalty—100 penalty units.

Part 6 Miscellaneous

337A Use of body-worn cameras

(1) It is lawful for an authorised officer to use a body-worn camera to record images or sounds while the authorised officer is exercising a power under this chapter.

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(2) Use of a body-worn camera by an authorised officer under subsection (1) includes use that is—

(a) inadvertent or unexpected; or

(b) incidental to use while exercising the authorised officer's power.

(3) Subsection (1) does not affect an ability the authorised officer has at common law or under another Act to record images or sounds.

(4) To remove any doubt, it is declared that subsection (1) is a provision authorising the use by an authorised officer of a listening device, for the purposes of the *Invasion of Privacy Act 1971*, section 43(2)(d).

(5) In this section—

body-worn camera means a device—

(a) worn on clothing or otherwise secured on a person; and

(b) designed to be used to—

(i) record images; or

(ii) record images and sounds.

Chapter 11 Compensation for loss or damage from biosecurity response

Part 1 Preliminary

338 What is a *biosecurity response*

(1) A ***biosecurity response*** is any lawful action taken—

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(a) by the chief executive or an authorised officer, including a person acting under the authority of the chief executive or an authorised officer, if the action is authorised to be taken under this Act; or

Example of biosecurity response by an inspector for paragraph (a)—

an inspector demolishing an outbuilding at a place within a biosecurity emergency area

(b) by another person as directed or otherwise required by the chief executive or an authorised officer, including by a person acting under the authority of the chief executive or an authorised officer, if the direction or requirement is authorised to be given or made under this Act.

Example of biosecurity response for paragraph (b)—

the owner of an animal acting under the direction of an inspector to destroy the animal at a place within a biosecurity emergency area

(2) A ***biosecurity response*** does not include—

(a) any action taken under chapter 13, including, for example, action taken under a biosecurity order, or under an order of a magistrate or an injunction, under that chapter; or

(b) anything that happens by accident or as a result of negligence.

(3) In this section—

authorised officer does not include an authorised person whose appointment under this Act as an authorised person is by—

(a) the chief executive officer of a local government; or

(b) the chairperson of an invasive animal board.

339 What is loss or damage arising out of a biosecurity response

In this chapter, a reference to loss or damage arising out of a biosecurity response is a reference to loss or damage only if—

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(a) it is lawfully caused under this Act; and

(b) the causing of the loss or damage constitutes all or part of a biosecurity response.

Note—

If loss or damage happens in the course of a biosecurity response but is not lawfully caused under this Act, for example because it involves a negligent act, compensation may nevertheless be available under the investigation and enforcement provisions or under the general law.

340 What is *property*

(1) In this chapter, a reference to ***property***, in the context of loss of it or damage to it, is a reference to something that is capable of being in the ownership of a person and is capable of being physically destroyed or physically damaged.

(2) Without limiting subsection (1), ***property*** may include any animal or plant.

341 What is *notional value* or *notional reduction in value* of property for statutory compensation

(1) The ***notional value*** of property that is the subject of loss is the amount that would have been received for the property if, at the place where it was destroyed, it had been sold under a lawful direction immediately before it was destroyed.

(2) The ***notional reduction in value*** of property that is the subject of damage is the difference between the following amounts—

(a) the amount that would have been received for the property if, at the place where it was damaged, it had been sold under a lawful direction immediately before it was damaged;

(b) the amount that would have been received for the property if, at the place where it was damaged, it had been sold under a lawful direction immediately after it was damaged.

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(3) For this chapter, property is taken to be the subject of damage rather than loss if, despite its being destroyed, what remains of it still has some commercial value.

(4) In this section—

sold under a lawful direction, in relation to property, means sold at the highest price reasonably obtainable, but under the lawful direction of a person who is required to agree to, and to complete, the sale of the property without delay and without reference to whether the owner of the property would be a willing seller at the price obtained.

342 What is a *compensation scheme* and what is *scheme compensation*

(1) A ***compensation scheme*** is a government and industry agreement that includes provision for the payment of compensation for loss or damage arising out of a biosecurity response.

Example of agreement—

The Emergency Plant Pest Response Deed is a formal agreement between Plant Health Australia, the Commonwealth, all the States and territories and particular plant industry bodies establishing, on a basis of cost sharing, a scheme for the management and funding of responses to emergency plant pest incidents, and includes provision for compensation in the form of reimbursement costs for growers who suffer loss or damage as contemplated in the agreement.

(2) Compensation provided for under a compensation scheme (***scheme compensation***) may be, but need not be, limited to compensation for loss of or damage to property.

343 Sources of compensation available under this chapter

(1) This chapter deals with the provision of 2 different types of compensation for loss or damage arising out of biosecurity responses.

(2) Firstly, scheme compensation may be payable for loss or damage.

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(3) Secondly, compensation for loss of or damage to property may be payable by the State in the absence of scheme compensation being payable for the loss or damage.

Part 2 Scheme compensation

344 Operation of scheme compensation

(1) This section applies if—

(a) a person suffers loss or damage arising out of a biosecurity response; and

(b) a compensation scheme provides for compensation, in relation to the biosecurity response, for the loss or damage; and

(c) the person has, in compliance with the scheme, applied to the chief executive for compensation for the loss or damage.

(2) The chief executive must take reasonable steps, to the extent of the State's obligations under the scheme, to ensure that the person receives compensation for the loss or damage in accordance with the person's entitlement to compensation under the scheme.

Part 3 Statutory compensation

345 Operation of statutory compensation

(1) Subject to this chapter, a person who suffers loss of or damage to property arising out of a biosecurity response is entitled to compensation (***statutory compensation***) for the loss or damage to the extent provided for in this chapter.

Examples of loss of or damage to property—

- the destruction of a person's animal by an inspector during a biosecurity emergency

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- the partial demolition of a person's outbuilding by an inspector during a biosecurity emergency

(2) To receive the statutory compensation, the person must apply to the chief executive for the compensation under this chapter.

346 How scheme compensation affects entitlement to statutory compensation

(1) Statutory compensation is not payable to a person for loss of, or damage to, property suffered by the person and arising out of a biosecurity response if a compensation scheme provides for compensation for the person's loss or damage.

(2) Subsection (1) applies even if, in the person's particular circumstances, scheme compensation is not actually payable to the person because the person has failed to comply with a requirement of the compensation scheme relating to eligibility for payment.

Example for subsection (2)—

During a biosecurity emergency involving a virus outbreak, an infected crop is destroyed by an inspector. A compensation scheme provides for reimbursement of a crop's owner for the crop loss in circumstances of the loss. However, the scheme requires that, to be eligible to be paid compensation under the scheme, the crop owner must make an annual payment, in the nature of a premium, to a fund established under the scheme. The crop owner has not made an annual payment by the due date for its payment. Because of that, the person is ineligible for payment under the compensation scheme and, because of the existence of the scheme, is not entitled to statutory compensation under this chapter.

347 Other limitations applying to entitlement to statutory compensation

(1) Statutory compensation is not payable to a person who suffers loss of or damage to property arising out of a biosecurity response—

(a) if the conduct of the person materially contributed to the loss or damage; or

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(b) if the biosecurity event that the biosecurity response was directed at addressing could reasonably be expected to have caused the loss or damage, regardless of the happening of the biosecurity response; or

Examples of loss or damage in the context of paragraph (b)—

1 An authorised officer destroys a dog because it has contracted rabies. The dog could reasonably have been expected to die as a result of contracting the rabies.

2 An inspector demolishes an outbuilding to eradicate an insect borer. As the borer has damaged the outbuilding irreparably and it would have been structurally unsound, it could reasonably be expected that the outbuilding would have had to have been demolished.

(c) if the biosecurity response was directed at addressing the risk posed by the existence of biosecurity matter and the property was infested or infected with the biosecurity matter when the loss or damage happened; or

(d) if the biosecurity response was directed at addressing the risk posed by the existence of biosecurity matter that is a contaminant and the contaminant was present in the property in an amount more than the maximum acceptable level prescribed under a regulation for the property when the loss or damage happened; or

(e) if the biosecurity response was directed at addressing the risk posed by the existence of biosecurity matter and when the loss or damage happened, the property was likely to have become infested or infected with the biosecurity matter; or

(f) if—

(i) the biosecurity response was directed at addressing the risk posed by the existence of biosecurity matter; and

(ii) before the loss or damage happened, the property became infested or infected with the biosecurity matter; and

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(iii) the property was no longer infested or infected when the loss or damage happened, whether or not this was known at the time of the loss or damage; or

Example of damage in the context of paragraph (f)—

damage caused to an animal by the taking of a sample to find out whether an infection is still present

(g) if—

(i) the biosecurity response was directed at addressing the risk posed by the existence of biosecurity matter; and

(ii) the biosecurity response was necessary because of an act or omission of the owner of the property or of a person acting under the owner's express or implied authority; and

(iii) the act or omission caused or contributed to, or was likely to cause or contribute to, the spread of the biosecurity matter; or

(h) if—

(i) the biosecurity response was directed at addressing the risk posed by the existence of biosecurity matter; and

(ii) the biosecurity response was necessary because of an act or omission of the owner of the property or of a person acting under the owner's express or implied authority; and

(iii) the owner of the property is found guilty of an offence under this Act constituted completely or partly by the act or omission; or

(i) to the extent that the loss or damage is recovered or recoverable by the person under a policy of insurance.

(2) For subsection (1)(e), the chief executive may decide on and publish on the department's website a methodology for calculating whether property was likely to become infested or infected.

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348 No compensation for consequential loss

(1) Statutory compensation for the loss of property is limited to an amount equal to the notional value of the property.

(2) Statutory compensation for damage to property is limited to an amount equal to the notional reduction in value of the property.

(3) In particular, compensation for loss of or damage to property does not include compensation for loss flowing as a direct or indirect consequence of the loss or damage.

(4) Without limiting subsection (3), compensation for loss of or damage to property does not include compensation for any of the following—

(a) any loss of anticipated or actual revenue or profits;

(b) loss of use of equipment;

(c) business interruption, or a failure to realise anticipated savings;

(d) loss of data;

(e) downtime costs or wasted overheads;

(f) loss of goodwill or business opportunity;

(g) loss or damage suffered because of a breach of contract.

(5) Also, compensation for loss of or damage to property does not include compensation in the form of, or that is in the nature of or is analogous to, any of the following—

(a) reimbursement of additional expenses incurred;

(b) punitive or exemplary damages;

(c) special damages, or damages for indirect loss or damage of any nature whatsoever.

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Part 4 Claiming statutory compensation

349 Application for statutory compensation

(1) A person (the ***applicant***) may apply to the chief executive for statutory compensation.

(2) The application must be made in the approved form.

(3) The application must be received by the chief executive within 90 days after the date the loss or damage happens.

(4) However, the chief executive may accept the application after the period mentioned in subsection (3) if the chief executive is satisfied it is fair and reasonable in the circumstances to accept the application.

350 Further information may be required

(1) The chief executive may ask the applicant for further information reasonably required by the chief executive to assess an application for statutory compensation.

(2) The applicant must give the chief executive the information asked for within the reasonable period the chief executive requires.

351 Day for making and advising of decision

(1) The chief executive must give an applicant for statutory compensation the chief executive's decision on the application—

(a) if the applicant and the chief executive agree on a day by which the chief executive will give the applicant the chief executive's decision—by the day agreed; or

(b) if paragraph (a) does not apply, but the chief executive asks the applicant for further information to decide the application—within 60 days after the chief executive receives the further information; or

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(c) if neither paragraph (a) nor paragraph (b) applies—within 60 days after the chief executive receives the application.

(2) Despite subsection (1), the chief executive may, by notice given to the applicant, extend the period for making and advising a decision on the application by a further 60 days if the chief executive considers that the extension is justified because of the complexity of matters required to be considered in reaching the decision.

(3) When the chief executive makes a decision on the application, it must be given to the applicant in the form of an information notice.

(4) If the decision is that the applicant is entitled to be paid compensation, the information notice must state the amount of the compensation.

(5) If the chief executive fails to give the applicant notice of the decision by the day required under subsection (1) or (2)—

(a) the chief executive is taken to have decided that the applicant is not entitled to any statutory compensation for the loss or damage the subject of the application; and

(b) the applicant is entitled to receive an information notice for the decision under paragraph (a).

Chapter 12 Evidence, legal proceedings and reviews

Part 1 Evidence

352 Application of pt 1

This part applies to a proceeding under this Act.

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353 Appointments and authority

The following must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it—

(a) the chief executive's appointment;

(b) a chief executive officer's appointment;

(c) a designated officer's appointment;

(d) an auditor's appointment;

(e) an accredited certifier's accreditation;

(f) the authority of any of the chief executive, a local government, a chief executive officer, an authorised officer, an auditor or an accredited certifier to do anything under this Act.

354 Signatures

A signature purporting to be the signature of the chief executive, a chief executive officer, an authorised officer or an accredited certifier is evidence of the signature it purports to be.

355 Evidentiary aids

(1) A certificate purporting to be signed by the chief executive, or a chief executive officer, stating any of the following matters is evidence of the matter—

(a) a stated document is 1 of the following things made, given, issued or kept under this Act—

(i) an appointment, approval or decision;

(ii) a notice, direction or requirement;

(iii) a permit;

(iv) a record or an extract from a record;

(v) a code of practice;

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(b) a stated document is another document kept under this Act;

(c) a stated document is a copy of, or an extract from a part of, a thing mentioned in paragraph (a) or (b);

(d) on a stated day, or during a stated period, a stated person was or was not the holder of a permit;

(e) on a stated day, or during a stated period, a permit—

(i) was or was not in force; or

(ii) was or was not subject to a stated condition;

(f) on a stated day a permit was suspended for a stated period, surrendered or cancelled;

(g) on a stated day, or during a stated period, a stated appointment, including a person's appointment as an authorised officer, was or was not in force for a stated person or thing;

(h) on a stated day—

(i) a stated person was given a stated notice or direction under this Act; or

(ii) a stated requirement under this Act was made of a stated person; or

(iii) a stated amount is payable under this Act by a stated person.

(2) In a complaint starting a proceeding, a statement that the matter came to the complainant's knowledge on a stated day is evidence of when the matter came to the complainant's knowledge.

(3) In a proceeding in which the State or a local government applies under section 358 to recover costs incurred by the State or local government, a certificate by the chief executive for the State or the chief executive officer of the local government stating that stated costs were incurred and the way in which, and purpose for which, they were incurred is evidence of the matters stated.

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(4) In this section—

permit means—

(a) a prohibited matter permit; or

(b) a restricted matter permit.

Part 2 Legal proceedings

356 Offences under this Act

(1) An offence against this Act that has a penalty of more than 2 years imprisonment is an indictable offence that is a misdemeanour.

(2) Any other offence against this Act is a summary offence.

(3) A proceeding for an indictable offence may be taken, at the prosecution's election—

(a) by way of summary proceedings under the *Justices Act 1886*; or

(b) on indictment.

(4) A magistrate must not hear an indictable offence summarily if—

(a) at the start of the hearing, the defendant asks that the charge be prosecuted on indictment; or

(b) the magistrate considers that the charge should be prosecuted on indictment.

(5) If subsection (4) applies—

(a) the magistrate must proceed by way of an examination of witnesses for an indictable offence; and

(b) a plea of the person charged at the start of the proceeding must be disregarded; and

(c) evidence brought in the proceeding before the magistrate decided to act under subsection (4) is taken

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to be evidence in the proceeding for the committal of the person for trial or sentence; and

(d) before committing the person for trial or sentence, the magistrate must make a statement to the person as required by the *Justices Act 1886*, section 104(2)(b).

(6) The maximum term of imprisonment that may be summarily imposed for an indictable offence is 3 years imprisonment.

(7) A proceeding must be before a magistrate if it is a proceeding—

(a) for the summary conviction of a person on a charge for an indictable offence; or

(b) for an examination of witnesses for a charge for an indictable offence.

(8) However, if a proceeding for an indictable offence is brought before a justice who is not a magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.

(9) A proceeding for an offence against this Act that is to be heard in a summary way under the *Justices Act 1886* must start within—

(a) 1 year after the commission of the offence; or

(b) 1 year after the offence comes to the complainant's knowledge, but within 2 years after the offence was committed.

357 Allegations of false or misleading information or document

In any proceeding for an offence against this Act defined as involving false or misleading information, or a false or misleading document, it is enough for a charge to state that the information or document was 'false or misleading' to the person's knowledge, without specifying which.

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358 Recovery of costs of investigation

(1) This section applies if—

(a) a court convicts a person of an offence against this Act; and

(b) the State or a local government applies to the court for an order against the person for the payment of the costs the State or the local government has incurred in taking a thing or doing something else during the investigation of the offence; and

(c) the court finds the State or local government has reasonably incurred the costs.

(2) The court may order the person to pay the State or local government an amount equal to the costs if it is satisfied it would be just to make the order in the circumstances of the particular case.

(3) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

(4) An application to a court under this section, and any order made by the court on the application, is a judgment in the court's civil jurisdiction.

(5) Any issue is to be decided on the balance of probabilities.

359 Responsibility for acts or omissions of representative

(1) This section applies in a proceeding for an offence against this Act.

(2) If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—

(a) the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and

(b) the representative had the state of mind.

(3) An act done or omitted to be done for a person by a representative of the person within the scope of the

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representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.

(4) In this section—

representative means—

(a) for a corporation—an executive officer, employee or agent of the corporation; or

(b) for an individual—an employee or agent of the individual.

state of mind of a person includes—

(a) the person's knowledge, intention, opinion, belief or purpose; and

(b) the person's reasons for the intention, opinion, belief or purpose.

360 Fines payable to local government

(1) This section applies if—

(a) a proceeding for an offence about a matter is taken by a local government; and

(b) a court imposes a fine for the offence.

(2) The fine must be paid to the local government.

Part 3 Reviews

Division 1 Internal reviews

361 Internal review process

Every external review of a decision to which an information notice relates must be in the first instance by way of an application for internal review.

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362 Who may apply for internal review

The following persons may apply to the issuing authority for an information notice for an internal review of the decision (an ***internal review application***) to which it relates—

(a) a person who has been given, or is entitled to be given, the information notice for the decision;

(b) for a decision to seize or forfeit a thing—a person in control of the thing.

363 Requirements for making application

(1) An internal review application must—

(a) be in the approved form; and

(b) be supported by enough information to enable the issuing authority to decide the application; and

(c) be made within 14 days after the applicant is given the information notice for the decision the subject of the application.

(2) However, the issuing authority may, at any time, extend the time for making an internal review application.

364 Stay of operation of original decision

(1) An internal review application does not stay the decision the subject of the application (the ***original decision***).

(2) However, the applicant may immediately apply for a stay of the original decision to the relevant body.

(3) The relevant body may stay the original decision to secure the effectiveness of the internal review and a later appeal to the court or external review by QCAT.

(4) The stay—

(a) may be given on conditions the relevant body considers appropriate; and

(b) operates for the period fixed by the relevant body; and

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(c) may be amended or revoked by the relevant body.

(5) The period of the stay must not extend past the time when the issuing authority makes an internal review decision about the original decision and any later period the relevant body allows the applicant to enable the applicant to appeal against, or apply for an external review of, the internal review decision.

(6) An internal review application affects the original decision, or carrying out of the decision, only if the decision is stayed.

(7) In this section—

relevant body means—

(a) for an original decision to seize or forfeit a thing—the court; or

(b) for another original decision—QCAT.

365 Internal review

(1) The issuing authority must, within 20 days after receiving an internal review application made under section 363—

(a) conduct an internal review of the original decision; and

(b) make a decision (the ***internal review decision***) to—

(i) confirm the original decision; or

(ii) amend the original decision; or

(iii) substitute another decision for the original decision.

(2) The application must not be dealt with by—

(a) the person who made the original decision; or

(b) a person in a less senior office than the person who made the original decision.

(3) Subsection (2)—

(a) applies despite the *Acts Interpretation Act 1954*, section 27A; and

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(b) does not apply to an original decision made by the chief executive or a chief executive officer personally.

(4) If the internal review decision confirms the original decision, for the purpose of an appeal or external review, the original decision is taken to be the internal review decision.

(5) If the internal review decision amends the original decision, for the purpose of an appeal or external review, the original decision as amended is taken to be the internal review decision.

366 Notice of internal review decision

(1) The issuing authority must, within 10 days after making an internal review decision, give the applicant notice of the decision.

(2) If the internal review decision is not the decision sought by the applicant, the notice must—

(a) for an original decision to seize or forfeit a thing—state the following—

(i) the day the notice is given to the applicant (the ***review notice day***);

(ii) the reasons for the decision;

(iii) that the applicant may, within 28 days after the notice is given, appeal against the decision to the court;

(iv) how to appeal;

(v) that the applicant may apply to the court for a stay of the decision; or

(b) for another decision—be accompanied by a QCAT information notice for the decision.

(3) If the issuing authority does not give the notice within the 10 days, the issuing authority is taken to have made an internal review decision confirming the original decision.

(4) In this section—

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QCAT information notice means a notice complying with the QCAT Act, section 157(2).

Division 2 External reviews by QCAT

367 Who may apply for external review

A person given, or entitled to be given, a QCAT information notice under section 366 for an internal review decision may apply, as provided under the QCAT Act, to QCAT for an external review of the decision.

Note—

The QCAT Act, section 22(3) provides that QCAT may stay the operation of the internal review decision, either on application by a person or on its own initiative.

Division 3 Appeals

368 Who may appeal

A person who has applied for an internal review of an original decision to seize or forfeit a thing and is dissatisfied with the internal review decision may appeal to the court against the decision.

369 Procedure for an appeal to the court

(1) An appeal is started by filing notice of appeal with the clerk of the court.

(2) A copy of the notice must be served on the issuing authority.

(3) The notice of appeal must be filed within 28 days after the appellant receives notice of the internal review decision appealed against.

(4) However, the court may, at any time, extend the time for filing the notice of appeal.

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(5) The notice of appeal must state fully the grounds of the appeal.

370 Stay of operation of internal review decision

(1) The court may grant a stay of the operation of an internal review decision appealed against to secure the effectiveness of the appeal.

(2) A stay—

(a) may be granted on conditions the court considers appropriate; and

(b) operates for the period fixed by the court; and

(c) may be amended or revoked by the court.

(3) The period of a stay stated by the court must not extend past the time when the court decides the appeal.

(4) An appeal against a decision affects the decision, or the carrying out of the decision, only if the decision is stayed.

371 Powers of court on appeal

(1) In deciding an appeal, the court—

(a) has the same powers as the issuing authority in making the internal review decision appealed against; and

(b) is not bound by the rules of evidence; and

(c) must comply with natural justice.

(2) An appeal is by way of rehearing.

(3) The court may—

(a) confirm the internal review decision; or

(b) set aside the internal review decision and substitute another decision; or

(c) set aside the internal review decision and return the matter to the issuing authority with directions the court considers appropriate.

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372 Effect of decision of court on appeal

(1) If the court acts to set aside the internal review decision and return the matter to the issuing authority with directions the court considers appropriate, and the issuing authority makes a new decision, the new decision is not subject to review or appeal under this part.

(2) If the court substitutes another decision, the substituted decision is taken to be the decision of the issuing authority, and the issuing authority may give effect to the decision as if the decision were the original decision of the issuing authority and no application for review or appeal had been made.

Chapter 13 Biosecurity orders and injunctions

Part 1 Biosecurity orders

Division 1 General matters about biosecurity orders

373 Giving biosecurity order

(1) If an authorised officer reasonably believes that a person has failed, or may fail, to discharge the person's general biosecurity obligation at a place, the authorised officer may give the person (the ***recipient***) an order (a ***biosecurity order***).

(2) The authorised officer may give the person the biosecurity order regardless of the circumstances in which the authorised officer forms the belief.

Examples—

1 An authorised officer enters a place under a biosecurity emergency order made for responding to an outbreak of equine influenza. The

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authorised officer notices Mexican feather grass (an invasive plant that is restricted matter) at the place. The authorised officer may give the occupier of the place a biosecurity order for the Mexican feather grass.

2 Under a prevention and control program, an authorised officer appointed by the chief executive enters a place to which the program applies. The biosecurity matter the subject of the program is red imported fire ants. The authorised officer notices the person is keeping tilapia at the place. Tilapia is category 7 restricted matter. The authorised officer may give the occupier of the place a biosecurity order for the tilapia.

(3) A biosecurity order must be directed at ensuring the recipient discharges his or her general biosecurity obligation at the place, and may in particular be directed at ensuring the recipient discharges the general biosecurity obligation for particular biosecurity matter.

(4) The biosecurity order may state that an authorised officer proposes, at a stated time or at stated intervals, to enter any of the following where biosecurity matter or a carrier, the subject of the order, is kept to check compliance with the order—

(a) the place;

(b) a vehicle of which the recipient is the person in control;

(c) another place of which the recipient is the occupier.

Note—

See section 270 for the procedure for entry to check compliance with a biosecurity order.

(5) The biosecurity order may state how the recipient may show that the stated action has been taken.

374 Matters that must be included in biosecurity order

(1) A biosecurity order must state each of the following—

(a) the name and address of the recipient, or any other identifying information about the recipient that the authorised officer can reasonably obtain;

(b) if the authorised officer reasonably believes the recipient has failed to discharge the recipient's general

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biosecurity obligation—the way in which the recipient has failed to discharge the recipient's general biosecurity obligation;

(c) the place where the recipient failed, or may fail, to discharge the recipient's general biosecurity obligation;

(d) the action the recipient must take at the place to prevent or reduce the biosecurity risk arising from the recipient's failure, or possible failure, to discharge the recipient's general biosecurity obligation;

(e) the period within which the action must be taken;

(f) the action, if any, the recipient must take to show the recipient is complying with the biosecurity order and the period within which the action must be taken;

Example—

photos, taken before, during and after treatment, of land infested with restricted matter

(g) the name of the authorised officer;

(h) the name, address and contact details of the issuing authority for the biosecurity order;

(i) that it is an offence for the recipient not to comply with the order unless the recipient has a reasonable excuse.

(2) The period stated under subsection (1)(e) must be reasonable having regard to the biosecurity risk arising from the recipient's failure, or possible failure, to discharge his or her general biosecurity obligation.

(3) The biosecurity order must also set out, or state the effect of, sections 262 and 263.

375 What biosecurity order may require

Without limiting sections 373 and 374, the biosecurity order may require the recipient to do any of the following at the place—

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(a) treat in a stated way, or refrain from treating, a carrier of biosecurity matter to control the biosecurity matter or to lessen the risk of the spread of the biosecurity matter;

(b) dispose of biosecurity matter or a carrier in a stated way, including by burning or burying it or by depositing it at a place where waste is deposited or disposed of;

(c) destroy, or cause the destruction of, biosecurity matter or a carrier at the place in a stated way;

(d) control or eradicate biosecurity matter in a stated way;

(e) clean or disinfect the place, or part of the place, a person at the place or anything on the person or a carrier at the place in a stated way;

(f) stop using the place or part of the place, for a stated purpose or a stated period, or until stated action is taken;

(g) remove biosecurity matter or a carrier from the place to another place and destroy, or cause the destruction of, the biosecurity matter or the carrier at the other place in a stated way;

(h) prohibit, or restrict in a stated way, the removal of biosecurity matter or a carrier;

(i) remove biosecurity matter or a carrier from the State or part of the State in a stated way.

376 Requirements for giving biosecurity order

(1) A biosecurity order must be in writing.

(2) However, a biosecurity order may be given orally if—

(a) for any reason it is not practicable to immediately give the order in writing; and

(b) the authorised officer giving the biosecurity order gives the recipient a warning that, without reasonable excuse, it is an offence for the recipient not to comply with the order.

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(3) If the biosecurity order is given in writing, the order must be accompanied by, or include, an information notice for the authorised officer's decision to give the order.

(4) If the biosecurity order is given orally, the authorised officer must—

(a) when giving the order, tell the recipient that—

(i) the recipient will be given, as soon as practicable, an information notice for the decision to give the order; and

(ii) the recipient is entitled to apply for an internal review of the decision to give the order; and

(iii) if the recipient applies for an internal review of the decision to give the order, the recipient may immediately apply for a stay of the decision; and

(b) as soon as practicable after giving the order, confirm the order by giving the recipient a notice that—

(i) states the terms of the order and the date the order was given; and

(ii) is accompanied by, or includes, an information notice for the authorised officer's decision to give the order.

377 Compliance with biosecurity order

The recipient of a biosecurity order must comply with the order unless the recipient has a reasonable excuse.

Maximum penalty—800 penalty units.

Note—

If a recipient fails to comply with a biosecurity order, the issuing authority for the order may take action under chapter 10, for example under section 263. Other action may be taken under this Act, for example, under part 2 of this chapter.

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378 Approval for particular biosecurity order

(1) This section applies to a biosecurity order to be given to a person by an authorised person appointed by the chief executive officer of a local government if, in the opinion of the authorised person or chief executive officer, taking the action as mentioned in the biosecurity order, within the period stated in the order, would be likely to stop a business carried on by the person.

(2) Before the biosecurity order is given, the order must be approved by the chief executive officer.

379 Register of biosecurity orders

(1) The administering executive of an authorised officer must keep a register of all biosecurity orders given by the authorised officer.

(2) The register must contain the following particulars for each biosecurity order—

(a) the real property description of the land to which it relates;

(b) the local government area in which the land is situated;

(c) the day the order was given;

(d) information about biosecurity matter or any other thing to which the order relates;

(e) the action required to be taken under the order;

(f) the period stated in the order for taking the action;

(g) other information prescribed under a regulation.

(3) If the administering executive is satisfied that no further action is required in relation to a biosecurity order, the administering executive may remove the order from the register.

(4) The chief executive may publish the register, or part of the register, on the department's website.

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(5) A person may, on payment of the fee prescribed under a regulation, inspect a register, kept by a chief executive officer of a local government, at the local government's principal place of business when the place is open to the public.

(6) On application by a person and payment of the fee prescribed under a regulation, a person may buy a copy of all or part of the information held in a register.

Division 2 Recovery of costs and expenses

380 Recovery of costs of taking steps under biosecurity order

(1) The issuing authority for a biosecurity order may recover the amount that the issuing authority properly and reasonably incurs in taking the steps under section 263 as a debt payable by the person who failed to take the action to the issuing authority.

(2) The issuing authority must give the person notice of the amount of the debt.

(3) For subsection (1), the amount becomes payable 30 days after the issuing authority gives the person notice of the amount of the debt.

(4) If the issuing authority is a local government, the amount payable to the local government is, for the purposes of recovery, taken to be rates owing to the local government.

381 Cost under biosecurity order a charge over land

(1) This section applies if an amount, including any interest on the amount, (the ***unpaid amount***) is payable to a local government by the recipient under a biosecurity order relating to a failure to discharge a general biosecurity obligation on land owned by the recipient.

(2) The unpaid amount is a charge on the land.

(3) The local government may register the charge over the land by lodging the following documents with the registrar of titles—

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(a) a request to register the charge over the land, in the appropriate form;

(b) a certificate signed by the local government's chief executive officer stating there is a charge over the land under this section.

(4) After the charge is registered over the land, the charge has priority over all other encumbrances over the land other than—

(a) encumbrances in favour of the State or a government entity; and

(b) rates payable to the local government.

(5) If the unpaid amount is paid, the local government must lodge the following documents with the registrar of titles—

(a) a request to release the charge over the land, in the appropriate form;

(b) a certificate signed by the local government's chief executive officer stating the unpaid amount has been paid.

(6) This section does not limit any other remedy the local government has to recover the unpaid amount.

Division 3 Recovery of costs from other persons

382 Recipient may apply for contribution

(1) This section applies if the recipient of a biosecurity order has complied with the order and considers another person (the ***third party***), whether or not the State, is wholly or partly responsible for the failure to discharge the general biosecurity obligation the subject of the order.

(2) The recipient may apply to a court for an order (a ***cost recovery order***) that the third party reimburse the recipient for part or all of the costs of complying with the biosecurity order.

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(3) The application must—

(a) be sworn; and

(b) state the grounds on which the application is made; and

(c) state the name of the third party; and

(d) state the amount sought from the third party; and

(e) be accompanied by a copy of the biosecurity order.

(4) The court may refuse to consider the application until the applicant gives the court all the information the court requires about the application in the way the court requires.

Example—

The court may require additional information supporting the application be given by statutory declaration.

383 Notice of hearing of cost recovery order must be given

(1) The third party to whom the application relates must be given a notice at least 14 days before the day the application is to be heard.

(2) The notice—

(a) must be accompanied by a copy of the application; and

(b) must state—

(i) the time when and the place where the application is to be heard; and

(ii) that the third party may appear at the hearing and be heard on the application; and

(iii) that, if the third party does not appear, the application may be decided in the absence of the third party.

(3) If the third party appears at the time and place stated in the notice, the third party is entitled to be heard on the application.

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(4) If the third party does not appear at the time and place stated in the notice, the application may be decided in the absence of the third party.

384 When court may make cost recovery order

A court may make a cost recovery order against the third party if it is satisfied—

(a) a biosecurity order was given to a person; and

(b) the person has complied with the order and has paid, or is liable to pay, an amount for the cost of complying with the order; and

(c) the third party is responsible for part or all of the failure to discharge the general biosecurity obligation the subject of the order; and

(d) a copy of the application for the cost recovery order has been given to the third party.

Part 2 Injunctions

385 Application of pt 2

(1) This part applies if—

(a) a person has engaged, is engaging or is proposing to engage in conduct that constitutes or would constitute an offence under chapter 2; and

(b) the chief executive or a chief executive officer has reasonable grounds to believe that an injunction under this part is necessary to mitigate any adverse effect on a biosecurity consideration arising from the conduct.

(2) In this part, a reference to engaging in conduct may be taken to include a reference to omitting to engage in conduct, if the omission constitutes or would constitute an offence under chapter 2.

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386 Who may apply for an injunction

(1) The chief executive or chief executive officer may apply to the District Court for an injunction in relation to the conduct.

(2) However, a chief executive officer may apply for an injunction in relation to the conduct only if the conduct relates to invasive biosecurity matter for the local government's area.

387 District Court's powers

(1) On considering the application for an injunction, the District Court may grant an injunction—

(a) restraining the person from engaging in the conduct; and

(b) if in the court's opinion it is desirable to do so, requiring the person to do anything.

(2) The power of the court to grant an injunction restraining a person from engaging in conduct may be exercised—

(a) whether or not it appears to the court that the person intends to engage again, or to continue to engage, in the conduct; and

(b) whether or not the person has previously engaged in the conduct.

(3) The power of the court to grant an injunction requiring a person to do an act or thing may be exercised—

(a) whether or not it appears to the court that the person intends to fail again, or to continue to fail, to do the act or thing; and

(b) whether or not the person has previously failed to do the act or thing.

(4) An interim injunction may be granted under this part until the application is finally decided.

(5) The District Court may rescind or vary an injunction at any time.

(6) The powers conferred on the District Court under this part are in addition to, and do not limit, any other powers of the court.

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388 Terms of injunction

(1) The District Court may grant an injunction in the terms the court considers appropriate.

(2) Without limiting subsection (1), an injunction may be granted restraining a person from carrying on a business or carrying out another activity—

(a) for a stated period; or

(b) except on stated terms and conditions.

(3) Also, the court may grant an injunction requiring a person to take stated action, including action to disclose information or publish advertisements, to remedy any adverse consequences of the person's conduct.

389 Undertakings as to damages or costs

If the chief executive or a chief executive officer applies for an injunction under this part, no undertaking as to damages or costs may be required to be made.

Chapter 14 Particular agreements between State and other entities

Part 1 Intergovernmental agreements

390 Intergovernmental agreement for recognising biosecurity certificates

An agreement (an ***intergovernmental agreement***) entered into by the Minister or the chief executive, for the State, with the Commonwealth or another State may—

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(a) provide for recognition by Queensland of biosecurity certificates given under a law of the Commonwealth or other State that is a corresponding law to this Act; and

(b) provide for recognition by the Commonwealth or another State of biosecurity certificates given under this Act by accredited certifiers; and

(c) impose audit, inspection or other requirements on a party to the agreement to ensure the integrity and mutual recognition of certificates mentioned in paragraphs (a) and (b); and

(d) provide for another matter necessary or convenient to achieve the purposes of this Act.

Part 2 Government and industry agreements

391 Entering into government and industry agreements

(1) The Minister or the chief executive may, for the State, enter into an agreement (a ***government and industry agreement***)—

(a) to help achieve the purposes of this Act; and

(b) that is between the State and any 1 or more of the following—

(i) 1 or more other jurisdictions;

(ii) 1 or more local governments;

(iii) 1 or more industry bodies;

(iv) 1 or more natural resource management bodies;

(v) 1 or more other entities.

Example for subparagraph (v)—

utility service provider, port authority

(2) The agreement may be directed at—

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(a) ensuring a coordinated process for either of the following—

(i) responding to a biosecurity event;

(ii) sharing, between the parties, the costs related to a biosecurity event; or

(b) providing for another matter necessary or convenient to achieve the purposes of this Act.

(3) In this section—

industry body means a body considered by the participants in a particular industry to be the national or State representative of the industry.

other jurisdiction means the Commonwealth or another State.

392 Content of government and industry agreement

(1) A government and industry agreement may provide for the following—

(a) measures the parties to the agreement must undertake for—

(i) preparing for a biosecurity event; or

(ii) preventing, controlling or responding to a biosecurity event; or

(iii) undertaking surveillance for biosecurity matter; or

(iv) recovering from a biosecurity event; or

(v) ongoing management of biosecurity matter that caused a biosecurity event;

(b) the whole or partial reimbursement of costs incurred, or losses suffered, by a person in complying with an implemented response to a biosecurity event;

Examples of costs that may be incurred by a person in complying with an implemented response—

- costs of eradicating or controlling biosecurity matter

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- costs of undertaking a measure to prevent the introduction, reintroduction or spread of biosecurity matter

Examples of losses that may be suffered by a person in complying with an implemented response—

- the value of animals or plants owned by the person that are destroyed to eradicate or control biosecurity matter or to prevent the introduction, reintroduction or spread of biosecurity matter
- the value of production that is foregone because land owned by the person must be left fallow to prevent the introduction, reintroduction or spread of biosecurity matter

(c) sharing, between the parties to the agreement, of any of the following costs incurred by a party to the agreement—

(i) costs of an implemented response to a biosecurity event, including, for example, labour costs, operating expenses and capital expenditure;

(ii) costs of reimbursing persons for costs incurred, or losses suffered, by them in complying with the implemented response;

(d) restrictions applying to cost sharing under the agreement;

Examples of restrictions that may apply to cost sharing under the agreement—

- only a stated maximum amount is eligible for cost sharing under the agreement
- only the stated types of costs are eligible for cost sharing under the agreement

(e) anything else necessary or convenient for the matters mentioned in paragraphs (a) to (d).

(2) Subsection (1)(c) does not limit the types of costs that may be subject to cost sharing under the agreement.

(3) In this section—

implemented response, to a biosecurity event, means action taken in response to the biosecurity event, under a term of a government and industry agreement that states how the parties

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to the agreement will respond, or decide what their response will be, to the biosecurity event.

Part 3 Compliance agreements and certificates

Division 1 Purpose and effect of compliance agreements

393 Entering into compliance agreements

(1) The chief executive may, for the State, enter into an agreement (a ***compliance agreement***) that—

(a) helps achieve the purposes of this Act; and

(b) is between the State and a person (the ***other party***); and

(c) identifies any biosecurity risk matter the subject of the agreement; and

(d) provides for—

(i) the application of particular procedures relating to the biosecurity risk matter that must be carried out by the other party; and

(ii) the records the other party must keep to show compliance with the procedures; and

(iii) the supervision, monitoring and testing of the other party's compliance with the procedures.

(2) A compliance agreement may provide that, in the circumstances and to the extent stated in the agreement, the chief executive may give the other party notice—

(a) cancelling or amending the agreement; or

(b) suspending the operation of the agreement—

(i) for a stated period; or

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(ii) until the happening of a stated event.

(3) An inspector may give the other party notice of the application of particular procedures that are additional to the procedures contained in the compliance agreement.

(4) However, the inspector may give notice under subsection (3) only if the inspector is acting under chapter 10, part 3.

(5) If the inspector gives notice under subsection (3), the procedures stated in the notice are taken to be procedures in the compliance agreement.

(6) Also, a compliance agreement is of no effect in relation to a person to the extent that it purports to authorise an act or omission that is contrary to any of the following applying to the person—

(a) a biosecurity emergency order;

(b) a biosecurity zone regulatory provision;

(c) a movement control order.

394 What is a *compliance certificate*

A ***compliance certificate*** is a certificate—

(a) issued under a compliance agreement by a person authorised by the other party to the agreement to give the certificate; and

(b) stating that the measures proposed for preventing or managing exposure to all biosecurity risks relating to the biosecurity risk matter for the agreement have been carried out.

395 Effect of compliance agreement if holding compliance certificate

(1) This section applies if—

(a) the biosecurity risk matter stated in a compliance agreement is the dealing with a particular biosecurity matter or carrier; and

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(b) a person holds a compliance certificate under the agreement for the biosecurity risk matter.

(2) An authorised officer may, in exercising powers under this Act relating to the biosecurity risk matter, accept and, without further checking, rely and act on the compliance certificate.

Example—

An authorised officer may release to the other party to a compliance agreement biosecurity matter or a carrier that has been seized under chapter 10, part 4, division 5 if the other party holds a compliance certificate for the biosecurity matter or carrier.

Division 2 Applications for compliance agreements

396 Requirements for application

(1) A person may apply to the chief executive in the approved form to enter into a compliance agreement with the State.

(2) The application must state each of the following—

(a) the details about the applicant that are prescribed under a regulation;

(b) a brief description of the nature of the business the applicant conducts, including details of any biosecurity matter or carrier the business deals with, or activity carried out by the business, (the ***biosecurity risk matter***) that may pose a biosecurity risk;

(c) the biosecurity risks that are reasonably likely to be associated with the biosecurity risk matter;

(d) the measures proposed to prevent or manage exposure to the biosecurity risks and to help achieve the purposes of this Act, including measures—

(i) to minimise the likelihood of the applicant's dealing with biosecurity risk matter causing a biosecurity event; or

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(ii) to limit the consequences of a biosecurity event caused by the applicant's dealing with biosecurity risk matter;

Examples—

- hygiene or disinfection practices
- staff training
- operating procedures for plant and equipment used in the applicant's business
- the implementation of quality assurance measures to ensure the biosecurity risks associated with the biosecurity risk matter are identified, monitored and controlled

(e) when assessment of the proposed measures mentioned in paragraph (d) will be carried out and the way the measures will be assessed;

(f) whether the applicant proposes complying with a recognised way of managing the biosecurity risks for the applicant's business, including, for example, an Australian standard or a code of practice;

(g) if the applicant or, if the applicant is a corporation or an incorporated association, if an executive officer of the corporation or a member of the association's management committee has a conviction for a relevant biosecurity offence, other than a spent conviction—details of the offence and the circumstances of its commission;

(h) other information prescribed under a regulation relating to control of the biosecurity risks.

(3) The application must be accompanied by the fee prescribed under a regulation.

397 Consideration of application

The chief executive must consider the application and decide to grant, or refuse to grant, the application.

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398 Criteria for deciding application

(1) The chief executive may grant the application only if satisfied—

(a) the measures proposed to prevent or manage exposure to the biosecurity risks are suitable for the biosecurity risk matter; and

(b) the audit carried out under section 464 shows—

(i) the applicant's business has implemented procedures that provide a way for preventing or managing exposure to all biosecurity risks relating to the biosecurity risk matter; and

(ii) the applicant can comply with the requirements of the compliance agreement.

(2) Further, in deciding whether or not to grant the application, the chief executive must consider whether the applicant is a suitable person to enter into a compliance agreement.

399 Inquiry about application

(1) Before deciding the application, the chief executive—

(a) may make inquiries to decide the suitability of the applicant to enter into a compliance agreement; and

(b) may, by notice given to the applicant, require the applicant to give the chief executive, within the reasonable period of at least 30 days stated in the notice, further information or a document the chief executive reasonably requires to decide the application.

(2) The applicant is taken to have withdrawn the application if, within the stated period, the applicant does not comply with a requirement under subsection (1)(b).

(3) A notice under subsection (1)(b) must be given to the applicant within 30 days after the chief executive receives the application.

(4) The information or document under subsection (1)(b) must, if the notice requires, be verified by statutory declaration.

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400 Suitability of applicant to enter into compliance agreement

In considering whether an applicant is a suitable person to enter into a compliance agreement, the chief executive must have regard to whether the applicant or, if the applicant is a corporation or an incorporated association, an executive officer of the corporation or a member of the association's management committee—

(a) has a conviction for a relevant biosecurity offence, other than a spent conviction; or

(b) has previously entered into a compliance agreement that the chief executive has suspended or cancelled under division 3.

401 Decision on application

(1) If the chief executive decides to grant the application, the chief executive must—

(a) decide the provisions of the compliance agreement; and

(b) give the applicant an information notice for the decision that includes the proposed provisions; and

(c) on behalf of the State, enter into a compliance agreement with the applicant.

(2) Without limiting section 393, the provisions of a compliance agreement may include any of the following—

(a) that the applicant must comply with a document, including, for example, an Australian standard or a code of practice, in conducting the applicant's business;

(b) particular procedures relating to biosecurity matter that must be carried out by the applicant under the agreement;

(c) the records the applicant must keep to show compliance with the procedures;

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(d) agreed procedures for the supervision, monitoring and testing of the applicant's compliance with the procedures;

(e) the performance outcomes for the procedures;

(f) circumstances in which the agreement can be cancelled or suspended;

(g) circumstances in which the agreement can be amended;

(h) the way and the intervals in which the applicant is required to report on the applicant's compliance with the agreement and any other matter stated in the agreement;

(i) the information, or documents, relating to the applicant's business that the applicant may be required to give the chief executive;

(j) the day that the agreement takes effect;

(k) any other conditions the chief executive considers necessary or desirable to ensure the biosecurity risks that are reasonably likely to be associated with the biosecurity risk matter are prevented or managed.

(3) A compliance agreement must state its term that is not more than 5 years after the agreement takes effect.

Note—

See sections 393 and 407 for when the chief executive may cancel a compliance agreement.

(4) If the chief executive decides to refuse the application, the chief executive must as soon as practicable give the applicant an information notice for the decision.

402 Failure to decide application

(1) Subject to subsections (2) and (3), if the chief executive fails to decide the application within 30 days after its receipt, the failure is taken to be a decision by the chief executive to refuse to grant the application.

(2) Subsection (3) applies if—

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(a) a person has made an application to enter into a compliance agreement; and

(b) the chief executive has, under section 399(1), required the applicant to give the chief executive further information or a document.

(3) The chief executive is taken to have refused to grant the application if the chief executive does not decide the application within 30 days after the chief executive receives the further information or document.

(4) If the application is taken to be refused under this section, the applicant is entitled to be given an information notice by the chief executive for the decision.

Division 3 Suspension and cancellation of compliance agreements

403 Grounds for suspension or cancellation

(1) Each of the following is a ground for suspending or cancelling a compliance agreement—

(a) the other party to the agreement is not, or is no longer, a suitable person to be a party to the agreement;

(b) the other party is convicted of an offence against section 409;

(c) the chief executive reasonably believes the other party has not complied, or is not complying, with the agreement;

(d) a compliance audit of the other party's business identifies a noncompliance with the agreement and the noncompliance is likely to cause a significant biosecurity risk;

(e) the chief executive entered into the agreement in reliance on a materially false or misleading representation or declaration of the other party;

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(f) a ground for cancelling or suspending the agreement has arisen under section 401(2)(f).

(2) For forming a belief that the ground mentioned in subsection (1)(a) exists, the chief executive may have regard to the matters to which the chief executive may have regard in deciding whether an applicant for entering into a compliance agreement is a suitable person to enter into the agreement.

404 Show cause notice

(1) This section applies if the chief executive believes a ground exists to suspend or cancel the compliance agreement.

(2) The chief executive must give the other party to the agreement a notice under this section (a ***show cause notice***).

(3) The show cause notice must state the following—

(a) the action the chief executive proposes taking under this division (the ***proposed action***);

(b) the grounds for the proposed action;

(c) an outline of the facts and circumstances forming the basis for the grounds;

(d) if the proposed action is suspension of the agreement—the proposed suspension period;

(e) that the other party may, within a stated period (the ***show cause period***), make written representations to the chief executive to show why the proposed action should not be taken.

(4) The show cause period must end at least 28 days after the other party is given the show cause notice.

405 Representations about show cause notice

(1) The other party to the compliance agreement may make written representations about the show cause notice to the chief executive in the show cause period.

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(2) The chief executive must consider all representations (the ***accepted representations***) for the show cause notice made under subsection (1).

406 Ending show cause process without further action

If, after considering the accepted representations for the show cause notice, the chief executive no longer believes a ground exists to suspend or cancel the compliance agreement, the chief executive—

(a) must not take any further action about the show cause notice; and

(b) must give the other party to the agreement a notice that no further action is to be taken about the show cause notice.

407 Suspension or cancellation

(1) This section applies if—

(a) there are no accepted representations for the show cause notice; or

(b) after considering the accepted representations for the show cause notice, the chief executive—

(i) still believes a ground exists to suspend or cancel the compliance agreement; and

(ii) believes suspension or cancellation of the agreement is warranted.

(2) The chief executive may—

(a) if the proposed action was to suspend the agreement—suspend the agreement for not longer than the proposed suspension period; or

(b) if the proposed action was to cancel the agreement—cancel the agreement or suspend it for a period.

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(3) If the chief executive decides to take action under subsection (2), the chief executive must as soon as practicable give the other party to the agreement an information notice for the decision.

(4) The decision takes effect on the later of the following—

(a) the day the information notice is given to the other party;

(b) the day stated in the information notice for that purpose.

408 Immediate suspension of compliance agreement for biosecurity risk

(1) The chief executive may suspend the compliance agreement immediately if the chief executive believes—

(a) a ground exists to suspend or cancel the agreement; and

(b) it is necessary to suspend the agreement immediately because there is an immediate and serious biosecurity risk.

(2) The suspension—

(a) can be effected only by the chief executive giving an information notice to the other party to the agreement about the decision to suspend the agreement, together with a show cause notice; and

(b) operates immediately the notices are given to the other party; and

(c) continues to operate until the earliest of the following happens—

(i) the chief executive cancels the remaining period of the suspension;

(ii) the show cause notice is finally dealt with;

(iii) 56 days have passed since the notices were given to the other party.

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Division 4 Offences about compliance agreements

409 Complying with compliance agreement

(1) A person who is a party to a compliance agreement with the State must comply with the agreement unless the person has a lawful or reasonable excuse.

Maximum penalty—600 penalty units.

(2) In a proceeding for an offence against subsection (1), it is a defence for the person to prove that the person took all reasonable steps to comply with the compliance agreement.

410 False statements and false advertising

A person (the ***first person***) who is not a party to a compliance agreement must not—

(a) state, either orally or in writing, anything to another person that is likely to induce the person to believe the first person is a party to a compliance agreement; or

(b) publish, or cause to be published, an advertisement stating or implying the first person is a party to a compliance agreement.

Maximum penalty—100 penalty units.

Chapter 15 Accredited certifiers

Part 1 Interpretation

411 Definitions for ch 15

In this chapter—

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approved biosecurity accreditation scheme means a biosecurity accreditation scheme approved by the chief executive under part 5.

approved operator, for an approved biosecurity accreditation scheme, means a person approved, under part 5, to operate an approved biosecurity accreditation scheme.

biosecurity accreditation scheme see section 435A.

biosecurity accreditation system, of an approved operator of, or an applicant for approval to operate, an approved biosecurity accreditation scheme, means the processes, equipment, personnel and resources developed for operating the scheme.

ICA scheme means the national scheme, based on an intergovernmental agreement, that provides for the operational procedures known generally as Interstate Certification Assurance.

ICA system, of an applicant, means the processes, equipment, personnel and resources developed for use by the applicant for complying with the requirements of each operational procedure identified in the application.

operational procedure means a procedure—

(a) to identify, prevent, minimise or mitigate the biosecurity risks relating to particular biosecurity matter, a carrier of the matter or activities dealing with the matter; and

(b) that, if followed, provides a sound basis for issuing a biosecurity certificate in relation to the matter, carrier or activity.

owner, of a biosecurity accreditation scheme, means a person who has the right to manage, administer and change the scheme.

relevant accreditation offence means any of the following offences—

(a) an offence against this Act;

(b) an offence against a repealed Act;

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(c) an offence involving the supply or use of a chemical for agricultural purposes, including an offence against a law relating to the supply or use of agricultural chemical products, as defined under the Agvet Code of Queensland applying under the *Agricultural and Veterinary Chemicals (Queensland) Act 1994*;

(d) an offence against a law applying, or that applied, in the Commonwealth, another State or a foreign country if the offence substantially corresponds to an offence mentioned in paragraph (a), (b) or (c).

Part 2 Purpose and operation of biosecurity certificates and the accreditation system

412 What is a *biosecurity certificate*

A ***biosecurity certificate*** is a certificate about whether stated biosecurity matter or another stated thing, including, for example, a carrier of prohibited matter or restricted matter—

(a) is free of any stated prohibited matter or restricted matter; or

(b) is free of any stated regulated biosecurity matter; or

(c) is, for the purposes of a law that is a corresponding law to this Act, free of any stated biosecurity matter; or

(d) is in a stated condition; or

(e) is from a stated area; or

(f) has been the subject of a stated treatment; or

(g) meets stated requirements, including, for example, that it complies with requirements for certification as stated in an accreditation.

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413 Purpose and operation of acceptable biosecurity certificates

(1) An acceptable biosecurity certificate is intended to provide a convenient basis on which a person may be taken to comply with, or may be exempted from, particular requirements of this Act or of a corresponding law to this Act about prohibited or restricted matter or about biosecurity matter that may pose a risk to a biosecurity consideration.

(2) Subsection (3) applies if—

(a) an accredited certifier, in compliance with this Act, gives a biosecurity certificate for biosecurity matter or another stated thing (an ***acceptable biosecurity certificate***); or

(b) an interstate accredited certifier or interstate officer, in compliance with a corresponding law to this Act, gives a biosecurity certificate, however called, for biosecurity matter or another stated thing, and there is an intergovernmental agreement that provides for recognition in Queensland of the certificate (also an ***acceptable biosecurity certificate***); or

(c) an interstate officer, in compliance with a corresponding law to this Act, gives a certificate that is, or is in the nature of, a biosecurity certificate, however called, for biosecurity matter or another stated thing (also an ***acceptable biosecurity certificate***).

(3) If the acceptable biosecurity certificate makes a statement about the existence of a fact, an authorised officer may accept and, without further checking, rely and act on the acceptable biosecurity certificate.

Example—

An authorised officer's functions include carrying out an inspection of a carrier of biosecurity matter. An acceptable biosecurity certificate has been given for the biosecurity matter stating that the measures stated for preventing or managing exposure to biosecurity risks relating to the biosecurity matter have been carried out. The authorised officer is not required to carry out the inspection of the carrier.

(4) In this section—

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interstate accredited certifier means a person who holds accreditation, however called, in another State under a corresponding law to this Act and the accreditation is recognised, under an intergovernmental agreement, as being equivalent to accreditation held by an accredited certifier.

interstate officer means a person who holds a position, however called, equivalent to an authorised officer in a department of the Commonwealth or of another State that deals with the same matters as this Act or a provision of this Act under a corresponding law to this Act.

414 Purpose and operation of accreditation system

The purpose of the accreditation system under this chapter is to allow for persons to gain accreditation for the purposes of giving biosecurity certificates under this Act.

415 Giving biosecurity certificates

(1) An accredited certifier may refuse to give a person a biosecurity certificate if the accredited certifier has not, to the accredited certifier's reasonable satisfaction, done any of the following in relation to anything intended to be the subject of the certificate—

(a) inspect, test or treat the thing;

(b) take samples of the thing;

(c) supervise the treatment or grading of the thing;

(d) examine materials or equipment used to treat or grade the thing;

(e) do anything else the accredited certifier reasonably considers necessary or beneficial for the purposes of giving the biosecurity certificate.

(2) A biosecurity certificate may be given under this Act personally by an accredited certifier or, if accreditation conditions permit, by another person acting under the direction of the accredited certifier.

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(3) Subject to accreditation conditions and to this Act, an accredited certifier may give a biosecurity certificate in relation to the person's own biosecurity matter or other thing or another person's biosecurity matter or other thing.

Part 3 Accreditation of inspector or authorised person

416 Application of part limited to authorised officers appointed by chief executive

(1) This part applies to an inspector only if the inspector was appointed by the chief executive under chapter 10, part 1, division 1.

(2) This part applies to an authorised person only if the authorised person was appointed by the chief executive under chapter 10, part 1, division 2.

417 Accreditation of inspectors

An inspector is an accredited certifier subject to any conditions, including limitations—

(a) included in the inspector's instrument of appointment as an inspector; or

(b) as advised to the inspector from time to time by the chief executive.

418 Accreditation of authorised persons appointed by chief executive

(1) A person appointed as an authorised person by the chief executive is an accredited certifier if—

(a) the authorised person's accreditation is provided for in the authorised person's instrument of appointment or in any advice given to the authorised person by the chief executive at any time after appointment; and

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(b) the chief executive has not withdrawn the accreditation by advice given to the authorised person.

(2) The authorised person's accreditation is subject to any conditions, including limitations—

(a) included in the authorised person's instrument of appointment as an authorised person; or

(b) as advised to the authorised person from time to time by the chief executive.

419 Fees

A regulation may provide for the fees payable for the giving of a biosecurity certificate by an authorised officer who is also an accredited certifier.

Part 4 Accreditation by chief executive

Division 1 Application for accreditation

420 Application for accreditation

(1) A person may apply to the chief executive for the grant of an accreditation.

(2) An application for accreditation must—

(a) be made in the approved form; and

(b) be accompanied by the fee prescribed under a regulation.

(3) If the applicant or, if the applicant is a corporation or an incorporated association, if an executive officer of the corporation or a member of the association's management committee has a conviction for a relevant accreditation offence, other than a spent conviction, the application must

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include details of the offence and the circumstances of its commission.

(4) Subsection (3) does not limit the information that may be required under the approved form.

(5) A person who applies to the chief executive for a grant of an accreditation must not, in making the application, give the chief executive information that the person knows or ought reasonably to know is false or misleading in a material particular.

Maximum penalty—200 penalty units.

421 Additional application requirements for ICA scheme

If the grant of accreditation is for the purposes of the applicant's participation in the ICA scheme, the application must—

(a) identify the operational procedures provided for under the scheme and that are directly relevant to the proposed grant of accreditation; and

(b) include details of the applicant's ICA system relevant to each operational procedure; and

(c) identify the biosecurity matter to be covered by the accreditation; and

(d) if relevant to the accreditation, identify the chemicals to be covered by the accreditation and include evidence that the applicant is suitably authorised to deal with the chemicals.

422 Consideration of application

The chief executive must consider the application and decide to—

(a) grant the accreditation applied for or another accreditation; or

(b) grant the accreditation on conditions; or

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(c) refuse to grant the accreditation.

423 Criteria for granting accreditation

(1) The chief executive may grant accreditation only if satisfied the applicant—

(a) has the necessary expertise or experience to perform the functions of an accredited certifier; and

(b) is a suitable person to be an accredited certifier.

(2) Subsections (3) and (4) apply if the grant of accreditation is for the purposes of the applicant's participation in the ICA scheme.

(3) The chief executive must ensure that an audit is conducted of each of the applicant's ICA systems, or proposed ICA systems, relevant to the application, and must have regard to the results of the audit in deciding whether to grant accreditation.

(4) Without limiting subsection (3), the chief executive must have regard to whether each ICA system or proposed ICA system satisfies the requirements of any operational procedure to which the system is directed.

424 Inquiry about application

(1) Before deciding the application, the chief executive—

(a) may make inquiries to decide the suitability of the applicant to be an accredited certifier; and

(b) may, by notice given to the applicant, require the applicant to give the chief executive within the reasonable period of at least 30 days stated in the notice, further information or a document the chief executive reasonably requires to decide the application.

(2) The applicant is taken to have withdrawn the application if, within the stated period, the applicant does not comply with a requirement under subsection (1)(b).

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(3) A notice under subsection (1)(b) must be given to the applicant within 30 days after the chief executive receives the application.

(4) The information or document under subsection (1)(b) must, if the notice requires, be verified by statutory declaration.

425 Suitability of person for accreditation

In deciding whether the applicant is a suitable person for accreditation, the chief executive may have regard to the following—

(a) whether the applicant has been refused an accreditation under this Act or a similar accreditation under a repealed Act or a corresponding law to this Act;

(b) whether the applicant held an accreditation under this Act or a similar accreditation under a repealed Act or a corresponding law to this Act, that was suspended or cancelled;

(c) whether the applicant or, if the applicant is a corporation or an incorporated association, whether an executive officer of the corporation or a member of the association's management committee has a conviction for a relevant accreditation offence, other than a spent conviction;

(d) any other matter the chief executive considers relevant to the person's ability to perform the functions of an accredited certifier.

426 Decision on application

(1) If the chief executive decides to grant the accreditation, the chief executive must give the accreditation to the applicant.

(2) If the chief executive decides to refuse to grant the accreditation, or to impose conditions on the accreditation under section 430(1), the chief executive must as soon as practicable give the applicant an information notice for the decision.

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427 Failure to decide application

(1) Subject to subsections (2) and (3), if the chief executive fails to decide the application within 30 days after its receipt, the failure is taken to be a decision by the chief executive to refuse to grant the application.

(2) Subsection (3) applies if—

(a) a person has made an application for an accreditation; and

(b) the chief executive has, under section 424(1)(b), required the applicant to give the chief executive further information or a document.

(3) The chief executive is taken to have refused to grant the accreditation if the chief executive does not decide the application within 30 days after the chief executive receives the further information or document.

(4) If the application is taken to be refused under this section, the applicant is entitled to be given an information notice by the chief executive for the decision.

428 Term of accreditation

Unless sooner cancelled or suspended, an accreditation remains in force for the period, of not more than 3 years, decided by the chief executive and stated in the accreditation.

429 Form of accreditation

An accreditation may be given in a way the chief executive considers appropriate.

Example—

The chief executive may give an accreditation in the form of a certificate, or an agreement or arrangement with the accredited certifier.

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430 Accreditation conditions

(1) The chief executive may grant an accreditation on conditions (***accreditation conditions***).

(2) A condition may provide for any of the following—

(a) the particular type of biosecurity certificate the accredited certifier may give;

(b) conditions on which a biosecurity certificate may be given;

(c) other restrictions on the use of the accreditation;

(d) security for the performance of the conditions by the accredited certifier and the enforcement of the security, even if there is a penalty or liability under this Act;

(e) payment to the chief executive by the accredited certifier of the reasonable costs stated in the conditions for ensuring that the conditions are complied with;

(f) records required to be kept by the accredited certifier;

(g) auditing of the accredited certifier's activities as an accredited certifier;

(h) providing information to the chief executive as and when required by the chief executive;

(i) another matter prescribed under a regulation.

(3) Subsection (2) does not limit conditions that may be imposed by the chief executive.

(4) The chief executive may impose conditions when the accreditation is issued or renewed.

(5) In this section—

security includes mortgage, bond, insurance and surety.

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Division 2 Register

431 Register

(1) The chief executive must keep a register of accredited certifiers.

(2) The register must contain the following particulars for each accredited certifier—

(a) the accredited certifier's name and contact details;

(b) the accreditation conditions imposed on the accredited certifier's accreditation;

(c) the term of the accreditation.

(3) The register may be kept in the form, including electronic form, the chief executive considers appropriate.

(4) The chief executive may publish the register on the department's website.

Division 3 Renewal of accreditations

431A Application of division

This division does not apply to an accredited certifier who holds accreditation under an approved biosecurity accreditation scheme.

432 Application for renewal

(1) An accredited certifier may apply to the chief executive for renewal of the person's accreditation.

(2) The application must—

(a) be made within 60 days before the term of the accreditation ends; and

(b) be made in the approved form; and

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(c) be accompanied by the fee prescribed under a regulation.

(3) The chief executive must consider the application and decide to renew, or refuse to renew, the accreditation.

(4) In deciding the application, the chief executive may have regard to the matters to which the chief executive may have regard in deciding whether an applicant for an accreditation is a suitable person to be an accredited certifier.

(5) If the chief executive decides to refuse to renew the accreditation, or to impose conditions on the accreditation, the chief executive must as soon as practicable give the applicant an information notice for the decision.

(6) An accreditation may be renewed by issuing another accreditation to replace it.

433 Inquiry about application

(1) Before deciding an application under this part for renewal of a person's accreditation, the chief executive may, by notice given to the applicant, require the applicant to give the chief executive, within the reasonable period of at least 30 days stated in the notice, further information or a document the chief executive reasonably requires to decide the application.

(2) The applicant is taken to have withdrawn the application if, within the stated period, the applicant does not comply with the requirement.

(3) A notice under subsection (1) must be given to the applicant within 30 days after the chief executive receives the application.

(4) The information or document under subsection (1) must, if the notice requires, be verified by statutory declaration.

434 Failure to decide application

(1) Subject to subsections (2) and (3), if the chief executive fails to decide the application within 30 days after its receipt, the

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failure is taken to be a decision by the chief executive to refuse to grant the application.

(2) Subsection (3) applies if—

(a) a person has made an application for renewal of the person's accreditation; and

(b) the chief executive has, under section 433(1), required the applicant to give the chief executive further information or a document.

(3) The chief executive is taken to have refused to grant the application if the chief executive does not decide the application within 30 days after the chief executive receives the further information or document.

(4) If the application is taken to be refused under this section, the applicant is entitled to be given an information notice by the chief executive for the decision.

435 Accreditation continues pending decision about renewal

(1) If an accredited certifier applies for renewal of an accreditation under this part, the accreditation is taken to continue in force from the day it would, apart from this section, have ended until the application is decided or, under this part, taken to have been decided or is taken to have been withdrawn.

(2) However, if the chief executive decides to refuse to renew the accreditation, or is taken to refuse to renew the accreditation, the accreditation continues in force until the information notice for the decision is given to the applicant.

(3) Subsection (1) does not apply if the accreditation is earlier suspended or cancelled.

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Part 5 Approved biosecurity accreditation schemes

Division 1 Preliminary

435A What is a *biosecurity accreditation scheme*

A ***biosecurity accreditation scheme*** is a scheme that provides for the following functions—

(a) accrediting persons to issue biosecurity certificates under the scheme, including—

(i) the terms and conditions of accreditation; and

(ii) auditing a person's activities under an accreditation; and

(iii) responding to a person's noncompliance with the person's accreditation, including by suspending or cancelling the accreditation;

(b) reviewing decisions made, and resolving disputes, under the scheme;

(c) developing, and seeking appropriate approval of, operational procedures to apply under the scheme.

Division 2 Application for approval

435B Applying for approval of biosecurity accreditation scheme

(1) The owner of a biosecurity accreditation scheme may apply to the chief executive for approval of the scheme.

(2) The application must be accompanied by a document that sets out—

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(a) governance and administration arrangements for the ownership, operation and management of the scheme; and

(b) arrangements, procedures and controls for each of the functions of a biosecurity accreditation scheme mentioned in section 435A.

(3) Subsection (2) does not limit the information that may be required under the approved form for the application for approval.

435C Criteria for approving a biosecurity accreditation scheme

The chief executive may approve a biosecurity accreditation scheme if the chief executive is satisfied the scheme has—

(a) governance and administration arrangements that appropriately provide for the ownership, operation and management of the scheme; and

(b) arrangements, procedures and controls that provide a sound basis for the operation of a biosecurity accreditation scheme that provides for each of the functions mentioned in section 435A.

Division 3 Approval to operate approved biosecurity accreditation scheme

435D Applying for approval to operate approved biosecurity accreditation scheme

(1) A person may apply to the chief executive for approval to operate an approved biosecurity accreditation scheme.

(2) An application for approval must—

(a) identify the scheme; and

(b) identify the places where the applicant proposes to implement and operate the scheme; and

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(c) include details of the applicant's proposed plan for operating the scheme; and

(d) include details of the applicant's biosecurity accreditation system relevant to the scheme.

(3) Subsection (2) does not limit the information that may be required under the approved form for the application for approval.

435E Criteria for approving operator

(1) The chief executive may approve a person to operate an approved biosecurity accreditation scheme only if satisfied the person—

(a) has the necessary expertise and experience to implement and operate the scheme; and

(b) is a suitable person to operate the scheme; and

(c) can implement and operate the scheme effectively and comply with any proposed approval conditions.

(2) The chief executive must—

(a) ensure an audit is conducted of the applicant's biosecurity accreditation system, or proposed biosecurity accreditation system, relevant to the application; and

(b) consider the results of the audit when deciding whether to grant the approval.

435F Suitability of person for approval as operator

When deciding whether the applicant is a suitable person to operate an approved biosecurity accreditation scheme, the chief executive may consider—

(a) whether the applicant has been refused approval to operate an approved biosecurity accreditation scheme under this Act or a similar approval under a corresponding law; and

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(b) whether the applicant has been approved to operate an approved biosecurity accreditation scheme under this Act or a similar approval under a corresponding law, and whether that approval was suspended or cancelled; and

(c) whether the applicant has been refused an accreditation under this Act or a similar accreditation under a repealed Act or a corresponding law; and

(d) whether the applicant held an accreditation under this Act or a similar accreditation under a repealed Act or a corresponding law, that was suspended or cancelled; and

(e) whether any of the following persons have a conviction for a relevant accreditation offence, other than a spent conviction—

(i) the applicant;

(ii) if the applicant is a corporation—an executive officer of the corporation;

(iii) if the applicant is an incorporated association—a member of the association's management committee; and

(f) any other matter the chief executive considers relevant to the person's suitability to operate the scheme.

435G Term of approval

Unless sooner suspended or cancelled, an approval to operate an approved biosecurity accreditation scheme remains in force for the period, of not more than 3 years, decided by the chief executive and stated in the approval.

435H Approval conditions

(1) This section applies if the chief executive approves a person to operate an approved biosecurity accreditation scheme.

(2) The approval is granted on the following conditions (***approval conditions***)—

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(a) the approved operator must implement and comply with the approved biosecurity accreditation scheme;

(b) the approved operator may only accredit, however described, a person under the scheme to give biosecurity certificates if the person has the necessary expertise or experience to perform the functions of an accredited certifier under the scheme;

(c) the approved operator must have a compliance audit of the operator's operation of the scheme at the intervals stated in the conditions;

(d) the approved operator must keep a register of accredited certifiers under the scheme that contains the following particulars for each accredited certifier—

(i) the accredited certifier's name and contact details;

(ii) the conditions imposed on the accredited certifier's accreditation;

(iii) the term of the accreditation.

(3) The chief executive may grant the approval on other conditions (also ***approval conditions***).

(4) Another condition may provide for any of the following—

(a) the particular type of biosecurity certificate that may be given under the scheme;

(b) conditions on which a biosecurity certificate may be given under the scheme;

(c) other restrictions on the operation of the scheme;

(d) records required to be kept by the approved operator;

(e) providing information to the chief executive as and when required by the chief executive;

(f) another matter prescribed by regulation.

(5) Subsection (2) does not limit the conditions that may be imposed by the chief executive.

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(6) The chief executive may impose conditions when the approval is granted, amended or renewed.

Division 4 Renewal of approval to operate scheme

435I Applying for renewal

(1) An approved operator for an approved biosecurity accreditation scheme may apply to the chief executive for renewal of the person's approval to operate the scheme.

(2) The application must be made within 60 days before the term of the approval ends.

435J Deciding renewal application

(1) When deciding the application, the chief executive may consider the matters the chief executive may consider when deciding whether an applicant for approval to operate an approved biosecurity accreditation scheme is a suitable person to operate the scheme.

(2) An approval may be renewed by issuing another approval to replace it.

435K Approval continues pending decision about renewal

(1) This section applies if an approved operator of an approved biosecurity accreditation scheme applies for renewal of the approval to operate the scheme.

(2) The approval continues in force until—

(a) the application is withdrawn or taken to have been withdrawn under division 5; or

(b) if the chief executive decides to approve the application for renewal—the application is decided; or

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(c) if the chief executive decides to refuse the application for renewal, or is taken to refuse the application for renewal—the chief executive gives an information notice for the decision to the applicant.

(3) Subsection (2) does not apply if the approval is earlier suspended or cancelled.

Division 5 General provisions for applications

435L Application of division

This division applies for making and deciding applications under this part.

435M Form of application

(1) An application must be made in the approved form.

(2) The following applications for approval may be combined—

(a) an application for approval of a biosecurity accreditation scheme;

(b) an application by the owner of the scheme to be an approved operator of the scheme.

(3) If any of the following persons have a conviction for a relevant accreditation offence, other than a spent conviction, the application must include details of the offence and the circumstances of its commission—

(a) the applicant;

(b) for an applicant that is a corporation—an executive officer of the corporation;

(c) for an applicant that is an incorporated association—a member of the association's management committee.

(4) Subsection (3) does not limit the information that may be required under the approved form.

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435N Giving false or misleading information

A person who applies to the chief executive under this division must not give the chief executive information for the application that the person knows or ought reasonably to know is false or misleading in a material particular, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

435O Consideration of application

The chief executive must consider the application and decide to—

(a) approve the application; or

(b) approve the application on conditions; or

(c) refuse to approve the application.

435P Inquiry about application

(1) Before deciding the application, the chief executive—

(a) may make inquiries to decide the suitability of the applicant under section 435E(1)(b); and

(b) may, by a notice given to the applicant, require the applicant to give the chief executive within the reasonable period of at least 30 days stated in the notice, further information or a document the chief executive reasonably requires to decide the application.

(2) The applicant is taken to have withdrawn the application if, within the stated period, the applicant does not comply with a requirement under subsection (1)(b).

(3) A notice under subsection (1)(b) must be given to the applicant within 30 days after the chief executive receives the application.

(4) The information or document under subsection (1)(b) must, if the notice requires, be verified by statutory declaration.

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435Q Decision on application

(1) If the chief executive decides to approve the application, the chief executive must give an approval to the applicant.

(2) If the chief executive decides to refuse the application, or to impose conditions on the person's approval, the chief executive must as soon as practicable give the applicant an information notice for the decision.

435R Form of approval

An approval may be given in a way the chief executive considers appropriate.

Example—

The chief executive may give an approval to operate an approved biosecurity accreditation scheme in the form of a certificate, or an agreement or arrangement with the approved operator.

435S Failure to decide application

(1) Subject to subsections (2) and (3), if the chief executive fails to decide the application within 30 days after its receipt, the failure is taken to be a decision by the chief executive to refuse to grant the application.

(2) Subsection (3) applies if—

(a) a person has made an application under this part; and

(b) the chief executive has, under section 435P(1)(b), required the applicant to give the chief executive further information or a document.

(3) The chief executive is taken to have refused to grant the approval if the chief executive does not decide the application within 30 days after the chief executive receives the further information or document.

(4) If the application is taken to be refused under this section, the applicant is entitled to be given an information notice by the chief executive for the decision.

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Division 6 Register

435T Register

(1) The chief executive must keep a register of approved biosecurity accreditation schemes.

(2) The register must contain the following particulars for each approved biosecurity accreditation scheme—

(a) the name of the scheme;

(b) the day the scheme was approved;

(c) the name and contact details of the owner of the scheme;

(d) for each approved operator of the scheme—

(i) the name and contact details of the approved operator; and

(ii) the term of the approved operator's approval; and

(iii) the approval conditions of the approved operator's approval.

(3) The register may be kept in the form, including electronic form, the chief executive considers appropriate.

(4) The chief executive may publish the register, or part of the register, on the department's website.

Part 6 Offences about accreditation

436 Contravention of accreditation conditions

An accredited certifier must not contravene an accreditation condition unless the accredited certifier has a reasonable excuse.

Maximum penalty—200 penalty units.

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436A Contravention of approval conditions

An approved operator of an approved biosecurity accreditation scheme must not contravene an approval condition unless the approved operator has a reasonable excuse.

Maximum penalty—200 penalty units.

437 Offences about certification

(1) A person who is not an accredited certifier, or a person who is acting other than under the direction of an accredited certifier, must not give for biosecurity matter or another thing anything that purports to be a biosecurity certificate.

Maximum penalty—1,000 penalty units.

(2) A person must not make a statement or other representation about biosecurity matter or another thing that is likely to cause someone reasonably to believe that an acceptable biosecurity certificate has been given for the biosecurity matter or thing if—

(a) an acceptable biosecurity certificate has not been given for the biosecurity matter or thing; and

(b) the representation is made—

(i) for the sale or movement of the biosecurity matter or thing; or

(ii) to an authorised officer.

Maximum penalty—1,000 penalty units.

438 Unauthorised alteration of biosecurity certificate

A person (the ***relevant person***) must not alter, or allow another person to alter, a biosecurity certificate unless—

(a) the alteration is made under the written authorisation of the accredited certifier who gave the certificate; or

(b) all of the following apply—

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(i) the biosecurity certificate relates to the consignment of animals or other biosecurity matter from 1 place to another;

(ii) the alteration is for the purposes of the splitting of the consignment into 2 or more separate consignments;

(iii) the relevant person is the holder of an accreditation that allows for the relevant person to split consignments of the type the subject of the biosecurity certificate.

Maximum penalty—200 penalty units.

439 Giving accredited certifier false or misleading information

(1) A person must not, in relation to the administration of this Act, give an accredited certifier information, or a document containing information, that the person knows is false or misleading in a material particular.

Maximum penalty—200 penalty units.

(2) Subsection (1) applies to information or a document given in relation to the administration of this Act whether or not the information or document was given in response to a specific power under this Act.

440 Impersonating accredited certifier

A person must not impersonate an accredited certifier.

Maximum penalty—100 penalty units.

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Part 7 Keeping of accreditation related records

441 Keeping of biosecurity certificate by accredited certifier or receiver

(1) An accredited certifier who creates a biosecurity certificate for use by the accredited certifier or another person must keep a copy of the certificate, together with a record of the details of the use of the certificate as prescribed under a regulation, for the required period for the certificate.

Maximum penalty—200 penalty units.

(2) During the required period for a biosecurity certificate, the accredited certifier who created the certificate must, if asked by an authorised officer or a relevant auditor to produce the copy of the certificate for inspection, produce the copy for the authorised officer's or relevant auditor's inspection, unless the accredited certifier has a reasonable excuse.

Maximum penalty—100 penalty units.

(3) Subsections (4) and (5) apply to a person (the ***receiver***) who receives an acceptable biosecurity certificate for use by the receiver.

(4) The receiver must, during the required period for the certificate, keep the certificate under the receiver's control.

Maximum penalty—200 penalty units.

(5) During the required period for the certificate, the receiver must, if asked by an authorised officer to produce the certificate for inspection, produce the certificate for the authorised officer's inspection, unless the receiver has a reasonable excuse.

Maximum penalty—100 penalty units.

(6) In this section—

relevant auditor, in relation to the production of a biosecurity certificate, means an auditor who is conducting an audit that is

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authorised under this Act and to which the certificate is relevant.

required period, for a certificate mentioned in this section, means—

(a) if the certificate is created for the purposes of its use in the ICA scheme, the longer of the following periods—

(i) the period of 1 year starting when the certificate is created;

(ii) the period starting when the certificate is created and ending when the first audit of the certificate, authorised under this Act, happens; or

(b) otherwise—the period of 5 years starting when the certificate is created.

Chapter 16 Auditors and auditing

Part 1 Auditors

Division 1 Functions and approval of auditors

Subdivision 1 Functions

442 Auditor's functions

The functions of an auditor are as follows—

(a) to advise the chief executive about the capacity of persons applying to enter into compliance agreements to comply with the agreements;

(b) to conduct audits of the businesses of the other parties to compliance agreements;

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(c) to conduct audits of applicants' ICA systems, or proposed ICA systems, relevant to applications for grants of accreditation under chapter 15;

(d) to conduct audits of accredited certifiers' activities as accredited certifiers;

(e) to conduct audits of applicants' biosecurity accreditation systems, relevant to applications for approval to operate approved biosecurity accreditation schemes under chapter 15;

(f) to conduct audits of approved operators' operation of approved biosecurity accreditation schemes;

(g) to prepare, under sections 471 to 474, reports of audits conducted by the auditor;

(h) to give the chief executive information requested by the chief executive about audits conducted by the auditor;

(i) any other function prescribed under a regulation about auditing in relation to compliance agreements or accreditation.

Subdivision 2 Approval of inspector or authorised person as auditor

443 Application of subdivision limited to authorised officers appointed by chief executive

(1) This subdivision applies to an inspector only if the inspector was appointed by the chief executive under chapter 10, part 1, division 1.

(2) This subdivision applies to an authorised person only if the authorised person was appointed by the chief executive under chapter 10, part 1, division 2.

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444 Approval of inspectors as auditors

An inspector is an auditor subject to any conditions, including limitations—

(a) included in the inspector's instrument of appointment as an inspector; or

(b) as advised to the inspector from time to time by the chief executive.

445 Approval of authorised persons as auditors

(1) An authorised person is an auditor if—

(a) the authorised person's approval as an auditor is provided for in the authorised person's instrument of appointment or in any advice given to the authorised person by the chief executive at any time after appointment; and

(b) the chief executive has not withdrawn the approval by advice given to the authorised person.

(2) An authorised person's approval as an auditor is subject to any conditions, including limitations—

(a) included in the authorised person's instrument of appointment as an authorised person; or

(b) as advised to the authorised person from time to time by the chief executive.

Subdivision 3 Approval as auditor by application

446 Application for approval as auditor

(1) An individual may apply to the chief executive for an approval as an auditor.

(2) The application must comply with section 460.

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447 Consideration of application

The chief executive must consider the application and decide to grant, or refuse to grant, the application.

448 Criteria for granting application

The chief executive may grant the application only if satisfied the applicant—

(a) has the necessary expertise or experience to perform the functions of an auditor; and

(b) is a suitable person to be an auditor.

449 Inquiry about application

(1) Before deciding the application, the chief executive—

(a) may make inquiries to decide the suitability of the applicant to be an auditor; and

(b) may, by notice given to the applicant, require the applicant to give the chief executive within the reasonable period of at least 30 days stated in the notice, further information or a document the chief executive reasonably requires to decide the application.

(2) The applicant is taken to have withdrawn the application if, within the stated period, the applicant does not comply with a requirement under subsection (1)(b).

(3) A notice under subsection (1)(b) must be given to the applicant within 30 days after the chief executive receives the application.

(4) The information or document under subsection (1)(b) must, if the notice requires, be verified by statutory declaration.

450 Suitability of person to be an auditor

In deciding whether the applicant is a suitable person to be an auditor, the chief executive may have regard to—

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(a) whether the applicant has been refused an approval or other authority as an auditor under this Act or a corresponding law; or

(b) whether the applicant held an approval or other authority as an auditor under this Act or a corresponding law that was suspended or cancelled; or

(c) another matter the chief executive considers relevant to the person's ability to perform the functions of an auditor.

451 Decision on application

(1) If the chief executive decides to grant the application, the chief executive must issue the approval to the applicant.

(2) If the chief executive decides to refuse to grant the application, or to impose conditions on the approval under section 454(1)(b), the chief executive must as soon as practicable give the applicant an information notice for the decision.

452 Failure to decide application

(1) Subject to subsections (2) and (3), if the chief executive fails to decide the application within 30 days after its receipt, the failure is taken to be a decision by the chief executive to refuse to grant the application.

(2) Subsection (3) applies if—

(a) a person has made an application for an approval; and

(b) the chief executive has, under section 449(1)(b), required the applicant to give the chief executive further information or a document.

(3) The chief executive is taken to have refused to grant the application if the chief executive does not decide the application within 30 days after the chief executive receives the further information or document.

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(4) If the application is taken to be refused under this section, the applicant is entitled to be given an information notice by the chief executive for the decision.

Division 2 Term and conditions of approval

453 Term of approval

An approval remains in force, unless sooner cancelled or suspended, for the term of not more than 3 years decided by the chief executive and stated in the approval.

454 Conditions of approval

(1) An auditor's approval is subject to the following conditions—

(a) the auditor must give the chief executive notice of any direct or indirect financial or other interest the auditor has in the following that could conflict with the proper performance of the auditor's functions—

(i) the business of the other party to a compliance agreement;

(ii) the business of an accredited certifier who participates in the ICA scheme;

(b) other reasonable conditions the chief executive considers appropriate for the proper conduct of an audit and that are stated in the approval or of which the auditor is notified under subsection (3).

(2) A notice under subsection (1)(a) must be given to the chief executive immediately after the auditor becomes aware of the interest.

(3) A condition may be imposed under subsection (1)(b)—

(a) when the approval is issued or renewed; or

(b) at another time if the chief executive considers it necessary to impose the condition to ensure an audit under this Act is conducted appropriately.

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(4) If the chief executive decides to impose conditions on the approval under subsection (3)(b), the chief executive must as soon as practicable give the auditor an information notice for the decision.

455 Auditor to comply with conditions of approval

(1) An auditor must not contravene a condition of the auditor's approval unless the auditor has a reasonable excuse.

Maximum penalty—100 penalty units.

(2) The penalty under subsection (1) may be imposed whether or not the approval is suspended or cancelled because of the contravention.

Division 3 Renewal of approvals

456 Application for renewal

(1) An auditor may apply to the chief executive for renewal of the auditor's approval.

(2) The application must—

(a) be made within 60 days before the term of the approval ends; and

(b) comply with section 460.

(3) The chief executive must consider the application and decide to renew, or refuse to renew, the approval.

(4) In deciding the application, the chief executive may have regard to the matters to which the chief executive may have regard in deciding whether an applicant for an approval is a suitable person to be an auditor.

(5) If the chief executive decides to refuse to renew the approval, or to impose conditions on the approval under section 454(1)(b), the chief executive must as soon as practicable give the auditor an information notice for the decision.

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(6) An approval may be renewed by issuing another approval to replace it.

457 Inquiry about application

(1) Before deciding an application under section 456, the chief executive may, by notice given to the applicant, require the applicant to give the chief executive within the reasonable period of at least 30 days stated in the notice, further information or a document the chief executive reasonably requires to decide the application.

(2) The applicant is taken to have withdrawn the application if, within the stated period, the applicant does not comply with the requirement.

(3) A notice under subsection (1) must be given to the applicant within 30 days after the chief executive receives the application.

(4) The information or document under subsection (1) must, if the notice requires, be verified by statutory declaration.

458 Failure to decide application

(1) Subject to subsections (2) and (3), if the chief executive fails to decide the application within 30 days after its receipt, the failure is taken to be a decision by the chief executive to refuse to grant the application.

(2) Subsection (3) applies if—

(a) an auditor has made an application for renewal of the auditor's approval; and

(b) the chief executive has, under section 457(1), required the auditor to give the chief executive further information or a document.

(3) The chief executive is taken to have refused to grant the application if the chief executive does not decide the application within 30 days after the chief executive receives the further information or document.

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(4) If the application is taken to be refused under this section, the auditor is entitled to be given an information notice by the chief executive for the decision.

459 Approval continues pending decision about renewal

(1) If an auditor applies for renewal of an approval under section 456, the approval is taken to continue in force from the day it would, apart from this section, have ended until the application is decided or, under this part, taken to have been decided or is taken to have been withdrawn.

(2) However, if the chief executive decides to refuse to renew the approval, or is taken to refuse to renew the approval, the approval continues in force until the information notice for the decision is given to the applicant.

(3) Subsection (1) does not apply if the approval is earlier suspended or cancelled.

Division 4 General provisions

460 Applications—general

(1) This section applies to an application for—

(a) an approval as an auditor under section 446; or

(b) renewal of an approval under section 456.

(2) The application must—

(a) be in the approved form; and

(b) be accompanied by the fee prescribed under a regulation.

(3) The approved form of an application mentioned in subsection (1)(a) must make provision for stating details of the applicant's direct or indirect financial or other interests, if any, in the following that could conflict with the proper performance of an auditor's functions—

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(a) the business of the other party to a compliance agreement;

(b) the business of an accredited certifier who participates in the ICA scheme.

461 Form of approval

An approval must—

(a) be in the approved form; and

(b) state the following particulars—

(i) the auditor's name and contact details;

(ii) the conditions of the approval imposed under section 454(1)(b);

(iii) the term of the approval.

462 Register

(1) The chief executive must keep a register of auditors.

(2) The register must contain the following particulars for each auditor—

(a) the auditor's name and contact details;

(b) the conditions of the approval imposed under section 454(1)(b);

(c) the term of the approval.

(3) The register may be kept in the form, including electronic form, the chief executive considers appropriate.

(4) The chief executive must publish the register on the department's website.

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Part 2 Auditing

Division 1 Preliminary

463 Purpose of pt 2

The purpose of this part is to provide for—

(a) auditing of compliance agreements and accreditations; and

(b) monitoring the conduct of audits of compliance agreements and accreditations; and

(c) reporting the results of audits.

Division 2 Auditing for compliance agreements

464 Audit of applicant's business for entering into compliance agreement

(1) This section applies to a person applying to enter into a compliance agreement.

(2) The chief executive must audit the applicant's business to ensure that—

(a) the applicant has implemented procedures for the applicant's business that provide a way for preventing or managing exposure to all biosecurity risks relating to the biosecurity risk matter for the business; and

(b) the applicant can comply with the requirements of the compliance agreement.

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465 Compliance audits

(1) The other party to a compliance agreement must, unless the other party has a reasonable excuse, have a compliance audit of the other party's business conducted—

(a) either—

(i) within 6 months after the other party enters into the compliance agreement; and

(ii) after the first compliance audit mentioned in paragraph (a)(i), at intervals of no more than 6 months; or

(b) at the intervals stated in the compliance agreement.

Maximum penalty—100 penalty units.

(2) The chief executive may, in writing, require the other party to a compliance agreement to have an additional compliance audit of the other party's business conducted within a stated reasonable period after a compliance audit if a noncompliance with the compliance agreement was identified at the compliance audit.

(3) The other party to the compliance agreement must comply with the requirement under subsection (2) unless the other party has a reasonable excuse.

Maximum penalty—100 penalty units.

466 Check audit

The chief executive may decide to conduct a check audit of the business of the other party to a compliance agreement if the chief executive considers it appropriate to conduct the audit.

467 Nonconformance audit

(1) This section applies if—

(a) the chief executive receives under section 472, in a period of 1 year, at least 3 audit reports in relation to

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audits of the business of the other party to a compliance agreement; and

(b) each report shows the other party has not remedied a particular noncompliance in relation to the business.

(2) The chief executive may decide to conduct a nonconformance audit of the business if the chief executive considers it appropriate to conduct the audit.

(3) The nonconformance audit may be conducted by an auditor—

(a) who is an employee of the department; or

(b) decided by the chief executive.

(4) The chief executive may recover the cost of conducting the nonconformance audit as a debt payable by the other party to the State.

Division 3 Auditing for accreditation

468 Additional compliance audits

(1) This section applies if—

(a) a compliance audit of an accredited certifier's activities as an accredited certifier is conducted under an accreditation condition or a requirement under subsection (2); and

(b) the compliance audit identified a noncompliance, or more than 1 noncompliance, with the accredited certifier's accreditation.

Note—

It is an offence for an accredited certifier to contravene an accreditation condition unless the accredited certifier has a reasonable excuse. See section 436.

(2) The chief executive may, in writing, require—

(a) for each noncompliance with the accreditation identified by the compliance audit—the accredited certifier to have an additional compliance audit conducted of the

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accredited certifier's activities related to the noncompliance; and

(b) the additional compliance audit to be conducted within a stated reasonable period.

(3) An additional compliance audit of the accredited certifier's activities required under subsection (2) may relate to more than 1 noncompliance with the certification.

(4) The accredited certifier must comply with a requirement under subsection (2) unless the accredited certifier has a reasonable excuse.

Maximum penalty—100 penalty units.

469 Check audit

The chief executive may decide to conduct a check audit of the accredited certifier's activities as an accredited certifier if the chief executive considers it appropriate to conduct the audit.

470 Nonconformance audit

(1) This section applies if—

(a) the chief executive receives under section 474, in a period of 1 year, at least 3 audit reports in relation to audits of an accredited certifier's activities as an accredited certifier; and

(b) each report shows the accredited certifier has not remedied a particular noncompliance in relation to the accredited certifier's activities.

(2) The chief executive may decide to conduct a nonconformance audit of the accredited certifier's activities if the chief executive considers it appropriate to conduct the audit.

(3) The nonconformance audit may be conducted by an auditor—

(a) who is an employee of the department; or

(b) decided by the chief executive.

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(4) The chief executive may recover the cost of conducting the nonconformance audit as a debt payable by the accredited certifier to the State.

Division 4 Auditing for operators of approved biosecurity accreditation schemes

470A Auditing applicant's system for operating approved biosecurity accreditation scheme

(1) This section applies to a person applying for approval to operate an approved biosecurity accreditation scheme.

(2) The chief executive must audit the applicant's biosecurity accreditation system to ensure—

(a) the applicant has the processes, equipment, personnel and resources to implement and operate the scheme; and

(b) the applicant can implement and operate the scheme effectively and comply with any proposed approval conditions.

470B Additional compliance audits

(1) This section applies if—

(a) a compliance audit of an approved operator's operation of an approved biosecurity accreditation scheme is conducted under an approval condition or a requirement under subsection (2); and

(b) the compliance audit identified a noncompliance, or more than 1 noncompliance, with the approved operator's approval.

(2) The chief executive may, in writing, require—

(a) for each noncompliance with the approval identified by the compliance audit—the approved operator to have an additional compliance audit conducted related to the noncompliance; and

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(b) the additional compliance audit to be conducted within a stated reasonable period.

(3) An additional compliance audit of the approved operator's operation of the scheme required under subsection (2) may relate to more than 1 noncompliance with the approval.

(4) The approved operator must comply with a requirement under subsection (2), unless the approved operator has a reasonable excuse.

Maximum penalty—100 penalty units.

470C Check audits

The chief executive may decide to conduct a check audit of the approved operator's operation of the approved biosecurity accreditation scheme if the chief executive considers it appropriate to conduct the audit.

470D Nonconformance audit

(1) This section applies if—

(a) the chief executive receives under section 474B, in a period of 1 year, at least 3 audit reports in relation to audits of an approved operator's operation of an approved biosecurity accreditation scheme; and

(b) each report shows the approved operator has not remedied a particular noncompliance in relation to operating the scheme.

(2) The chief executive may decide to conduct a nonconformance audit of the approved operator's operation of the scheme if the chief executive considers it appropriate to conduct the audit.

(3) The nonconformance audit may be conducted by an auditor—

(a) who is an employee of the department; or

(b) decided by the chief executive.

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(4) The chief executive may recover the cost of conducting the nonconformance audit as a debt payable by the approved operator to the State.

Part 3 Auditors' reports and responsibilities

Division 1 Compliance agreement reports

471 Report about audit for entering into compliance agreement

(1) An auditor must, within 14 days after completing an audit of the business of a person applying to enter into a compliance agreement, give a report about the audit to the following unless the auditor has a reasonable excuse—

(a) the applicant;

(b) the chief executive.

Maximum penalty—100 penalty units.

(2) The report must include all of the following information—

(a) the auditor's name;

(b) the days the audit started and ended, and the time spent conducting the audit;

(c) the address of, or other information sufficient to identify, the place at which the audit was conducted;

(d) details of the activities audited;

(e) whether, in the auditor's opinion, the applicant has or has not implemented procedures for the applicant's business that provide a way for preventing or managing exposure to all biosecurity risks relating to the biosecurity risk matter for the business;

(f) the reasons that the auditor considers the applicant has or has not implemented procedures for the applicant's

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business that provide a way for preventing or managing exposure to all biosecurity risks relating to the biosecurity risk matter for the business;

(g) whether, in the auditor's opinion, the applicant has or does not have the capacity to comply with the requirements of the compliance agreement;

(h) the reasons that the auditor considers the applicant has or does not have the capacity to comply with the requirements of the compliance agreement;

(i) other information prescribed under a regulation.

472 Report about audit for compliance, nonconformance or check audit

(1) An auditor must, within 14 days after completing a compliance, nonconformance or check audit of the business of the other party to a compliance agreement, give a report about the audit to the following unless the auditor has a reasonable excuse—

(a) the other party;

(b) the chief executive.

Maximum penalty—100 penalty units.

(2) The report must include all of the following information—

(a) the auditor's name;

(b) the days the audit started and ended, and the time spent conducting the audit;

(c) the address of, or other information sufficient to identify, the place at which the audit was conducted;

(d) details of the activities audited;

(e) whether, in the auditor's opinion, the business complies or does not comply with the compliance agreement;

(f) the reasons that the auditor considers the activities comply or do not comply with the compliance agreement;

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(g) if the activities do not comply with the compliance agreement—details of action taken, or proposed to be taken, to remedy the noncompliance;

(h) whether, in the auditor's opinion—

(i) an auditor needs to conduct a nonconformance audit of the business in relation to any noncompliance identified in the audit; or

(ii) the frequency of compliance audits for the business should be changed, and if so, the reasons that the auditor considers the frequency should be changed;

(i) other information prescribed under a regulation.

Division 2 Accreditation reports

473 Report about audit for grant of accreditation

(1) An auditor must, within 14 days after completing an audit of the applicant's ICA systems, or proposed ICA systems, relevant to an application for a grant of accreditation, give a report about the audit to the following unless the auditor has a reasonable excuse—

(a) the applicant;

(b) the chief executive.

Maximum penalty—100 penalty units.

(2) The report must include all of the following information—

(a) the auditor's name;

(b) the days the audit started and ended, and the time spent conducting the audit;

(c) the address of, or other information sufficient to identify, the place at which the audit was conducted;

(d) details of the applicant's ICA systems, or proposed ICA systems, audited;

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(e) whether, in the auditor's opinion, each ICA system or proposed ICA system satisfies the requirements of any operational procedure to which the system is directed;

(f) the reasons that the auditor considers each ICA system or proposed ICA system satisfies or does not satisfy the requirements of any operational procedure to which the system is directed;

(g) other information prescribed under a regulation.

474 Report about audit for compliance, nonconformance or check audit

(1) An auditor must, within 14 days after completing a compliance, nonconformance or check audit of an accredited certifier's activities as an accredited certifier, give a report about the audit to the following unless the auditor has a reasonable excuse—

(a) the accredited certifier;

(b) the chief executive.

Maximum penalty—100 penalty units.

(2) The report must include all of the following information—

(a) the auditor's name;

(b) the days the audit started and ended, and the time spent conducting the audit;

(c) the address of, or other information sufficient to identify, the place at which the audit was conducted;

(d) details of the activities audited;

(e) whether, in the auditor's opinion, the activities comply or do not comply with the accreditation;

(f) the reasons that the auditor considers the activities comply or do not comply with the accreditation;

(g) if the activities do not comply with the accreditation—details of action taken, or proposed to be taken, to remedy the noncompliance;

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(h) if the accredited certifier participates in the ICA scheme—

(i) whether, in the auditor's opinion, each of the accredited certifier's ICA systems satisfies the requirements of any operational procedure to which the system is directed; and

(ii) the reasons that the auditor considers each of the accredited certifier's ICA systems satisfies or does not satisfy the requirements of any operational procedure to which the system is directed;

(i) whether, in the auditor's opinion—

(i) an auditor needs to conduct a nonconformance audit of the activities in relation to any noncompliance identified in the audit; or

(ii) the frequency of compliance audits for the activities should be changed, and if so, the reasons that the auditor considers the frequency should be changed;

(j) other information prescribed under a regulation.

Division 2A Approved operator reports

474A Report about audit for approval to operate approved biosecurity accreditation system

(1) This section applies if an auditor conducts an audit of an applicant's biosecurity accreditation systems relevant to an application for approval to operate an approved biosecurity accreditation scheme.

(2) The auditor must give a report about the audit to the following persons within 14 days after completing the audit, unless the auditor has a reasonable excuse—

(a) the applicant;

(b) the chief executive.

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Maximum penalty—100 penalty units.

(3) The report must include all of the following information—

(a) the auditor's name;

(b) the days the audit started and ended, and the time spent conducting the audit;

(c) the address of, or other information sufficient to identify, the place at which the audit was conducted;

(d) details of the applicant's biosecurity accreditation systems audited;

(e) whether, in the auditor's opinion, the biosecurity accreditation system includes the processes, equipment, personnel and resources necessary for the applicant to operate the scheme;

(f) other information prescribed by regulation.

474B Report about audit for compliance, nonconformance or check audit

(1) This section applies if an auditor conducts a compliance, nonconformance or check audit of an approved operator's operation of an approved biosecurity accreditation system.

(2) The auditor must give a report about the audit to the following persons within 14 days after completing the audit, unless the auditor has a reasonable excuse—

(a) the approved operator;

(b) the chief executive.

Maximum penalty—100 penalty units.

(3) The report must include all of the following information—

(a) the auditor's name;

(b) the days the audit started and ended, and the time spent conducting the audit;

(c) the address of, or other information sufficient to identify, the place at which the audit was conducted;

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(d) details of the operations audited;

(e) whether, in the auditor's opinion, the operations comply or do not comply with the approval conditions or the scheme;

(f) the reasons why the auditor considers the operations comply or do not comply with the approval conditions or the scheme;

(g) if the operations do not comply with the approval conditions or the scheme—details of action taken, or proposed to be taken, to remedy the noncompliance;

(h) whether, in the auditor's opinion—

(i) an auditor needs to conduct a nonconformance audit of the operations in relation to any noncompliance identified in the audit; or

(ii) the frequency of compliance audits for the operations should be changed, and if so, the reasons why the auditor considers the frequency should be changed;

(i) other information prescribed by regulation.

Division 3 Responsibilities

475 Auditor's responsibility to inform chief executive

(1) This section applies if, in conducting a compliance, nonconformance or check audit of the business of the other party to a compliance agreement or of an accredited certifier's activities as an accredited certifier, an auditor forms a reasonable belief that—

(a) a person has contravened, or is contravening, this Act; and

(b) the contravention poses an imminent and serious biosecurity risk.

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(2) The auditor must give details of the facts and circumstances giving rise to the belief to the chief executive.

(3) The auditor must give the details to the chief executive as soon as practicable, and in any case not more than 24 hours, after forming the belief.

Maximum penalty—500 penalty units.

(4) If the auditor complies with subsection (3) by giving the chief executive the details orally, the auditor must, within 24 hours after giving the details orally, give the chief executive notice of the details.

Maximum penalty—500 penalty units.

Part 4 Offences about auditing

476 Obstructing auditor

(1) A person must not obstruct an auditor in the conduct of an audit, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

(2) If a person has obstructed an auditor and the auditor decides to proceed with the conduct of the audit, the auditor must warn the person that—

(a) it is an offence to obstruct the auditor unless the person has a reasonable excuse; and

(b) the auditor considers the person's conduct an obstruction.

477 Impersonating auditor

A person must not impersonate an auditor.

Maximum penalty—100 penalty units.

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Chapter 17 Amendment, suspension and cancellation provisions for particular authorities

Part 1 Interpretation

478 Definition

In this chapter—

relevant authority means—

(a) a prohibited matter permit; or

(b) a restricted matter permit; or

(c) an accreditation; or

(d) an approval of a biosecurity accreditation scheme; or

(e) an approval to operate a biosecurity accreditation scheme; or

(f) an auditor's approval.

Part 2 Amending conditions of relevant authority on application

479 Application by holder to amend relevant authority

(1) The holder of a relevant authority may apply to the chief executive to amend the authority—

(a) by amending the conditions of the authority; or

(b) if the authority is an approval of a biosecurity accreditation scheme—by amending the scheme.

(2) The application must—

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(a) be in the approved form; and

(b) be accompanied by the fee prescribed under a regulation.

(3) However, if the relevant authority is a prohibited matter or restricted matter permit, the chief executive may waive payment of the fee if the chief executive is satisfied of the matters mentioned in section 214(6)(a) or (b).

(4) The chief executive must consider the application and decide to amend, or refuse to amend, the authority.

(5) If the chief executive decides to refuse to amend the authority, the chief executive must as soon as practicable give the applicant an information notice for the decision.

(6) If the chief executive decides to amend the authority, the chief executive must as soon as practicable issue to the applicant another relevant authority showing the amendment.

480 Inquiry about application

(1) Before deciding the application, the chief executive may, by notice given to the applicant, require the applicant to give the chief executive within the reasonable period of at least 30 days stated in the notice, further information or a document the chief executive reasonably requires to decide the application.

(2) The applicant is taken to have withdrawn the application if, within the stated period, the applicant does not comply with the requirement.

(3) A notice under subsection (1) must be given to the applicant within 30 days after the chief executive receives the application.

(4) The information or document under subsection (1) must, if the notice requires, be verified by statutory declaration.

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481 Failure to decide application

(1) Subject to subsections (2) and (3), if the chief executive fails to decide the application within 30 days after its receipt, the failure is taken to be a decision by the chief executive to refuse to amend the relevant authority.

(2) Subsection (3) applies if—

(a) the holder of a relevant authority has made an application to amend the authority; and

(b) the chief executive has, under this part, required the applicant to give the chief executive further information or a document.

(3) The chief executive is taken to have refused to amend the authority if the chief executive does not decide the application within 30 days after the chief executive receives the further information or document verified, if required, by statutory declaration.

(4) If the application is taken to be refused under this section, the applicant is entitled to be given an information notice by the chief executive for the decision.

Part 3 Cancellation, suspension and amendment by chief executive

482 Cancellation and suspension

(1) Each of the following is a ground for cancelling or suspending a relevant authority—

(a) the authority was obtained by materially incorrect or misleading information or documents or by a mistake;

(b) the holder of the authority has not paid a fee or other amount payable to the chief executive in relation to the authority;

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(c) the holder of the authority has contravened a condition of the authority, whether the condition is included in the authority or is otherwise imposed under this Act;

(d) the holder of the authority has committed—

(i) if the authority is a prohibited matter or restricted matter permit—a relevant biosecurity offence; or

(ii) if the authority is an accreditation—a relevant accreditation offence; or

(iii) if the authority is an approval to operate an approved biosecurity accreditation scheme—an offence against section 436A or a relevant accreditation offence;

(e) if the authority is a prohibited matter or restricted matter permit, an accreditation or an approval to operate an approved biosecurity accreditation scheme—the chief executive becomes aware that the holder of the authority held a similar authority, however called, in another jurisdiction within the last 2 years and that authority was cancelled;

(f) if the authority is an accreditation or approval of a biosecurity accreditation scheme—the chief executive becomes aware that a circumstance in which a biosecurity certificate may be given under the accreditation or scheme is inconsistent with a legal requirement because the legal requirement, or the circumstance, has changed since the accreditation or approval was originally granted;

Example of a ground for paragraph (f)—

A person conducting a business is accredited to give biosecurity certificates for tomatoes grown and packed at the person's business premises. Under a corresponding law, Western Australia will accept tomatoes from Queensland only if the tomatoes come from a place more than 100km from an area where melon thrips have been detected. The chief executive becomes aware that melon thrips have been detected 50km from the business premises.

(g) if the authority is an auditor's approval—

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(i) the auditor is not, or is no longer, a suitable person to be an auditor; or

(ii) the auditor does not have the necessary expertise or experience to perform the auditor's functions; or

(iii) the audits conducted by the auditor have not been conducted honestly, fairly or diligently.

(2) For forming a belief that the ground mentioned in subsection (1)(g)(i) exists, the chief executive may have regard to the matters to which the chief executive may have regard in deciding whether the person is a suitable person to be an auditor.

(3) In this section—

holder, of a relevant authority that is a prohibited matter or restricted matter permit or an accreditation, includes, if the holder is a corporation, a related entity of the holder under the Corporations Act, section 9.

legal requirement means a requirement under this Act, an intergovernmental agreement or a corresponding law to this Act.

483 Amendment of relevant authority

If the chief executive believes a relevant authority should be amended, the chief executive may amend the authority under this part.

484 Cancellation, suspension or amendment by chief executive—show cause notice

(1) If the chief executive believes a ground exists to cancel or suspend a relevant authority (the ***proposed action***), or if the chief executive proposes to amend a relevant authority (also the ***proposed action***), the chief executive must give the holder of the authority notice under this section (a ***show cause notice***).

(2) The show cause notice must state each of the following—

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(a) the proposed action;

(b) the ground for the proposed action;

(c) an outline of the facts and circumstances forming the basis for the ground;

(d) if the proposed action is to suspend the authority—the proposed suspension period;

(e) if the proposed action is to amend the authority—the proposed amendment;

(f) that the holder may, within a stated period (the ***show cause period***), make written representations to the chief executive to show why the proposed action should not be taken.

(3) The show cause period must end at least 28 days after the holder is given the show cause notice.

(4) This section does not apply if the proposed action is to amend an auditor's approval by imposing a condition under section 454(3)(b).

485 Representations about show cause notice

(1) The holder of the relevant authority may make written representations about the show cause notice to the chief executive in the show cause period.

(2) The chief executive must consider all representations (the ***accepted representations***) made under subsection (1).

486 Ending show cause process without further action

If, after considering the accepted representations, the chief executive no longer believes a ground exists to take the proposed action, the chief executive—

(a) must take no further action about the show cause notice; and

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(b) must give the holder of the relevant authority notice that no further action is to be taken about the show cause notice.

487 Cancellation, suspension or amendment

(1) This section applies if—

(a) there are no accepted representations for the show cause notice; or

(b) after considering the accepted representations for the show cause notice, the chief executive—

(i) still believes a ground exists to cancel, suspend or amend the relevant authority; and

(ii) believes a cancellation, suspension or amendment of the relevant authority is warranted.

(2) The chief executive may—

(a) if the proposed action was to cancel the authority—cancel the authority, suspend the authority for a period or amend the authority; or

(b) if the proposed action was to suspend the authority—suspend the authority for no longer than the proposed suspension period or amend the authority; or

(c) if the proposed action was to amend the authority—amend the authority.

(3) If the chief executive acts under subsection (2), the chief executive must as soon as practicable give an information notice for the decision to the holder of the relevant authority.

(4) The decision takes effect on the later of the following—

(a) the day the information notice is given to the holder;

(b) the day stated in the information notice for that purpose.

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488 Immediate suspension of relevant authority

(1) The chief executive may suspend a relevant authority immediately if the chief executive believes—

(a) a ground exists to cancel or suspend the authority; and

(b) it is necessary to suspend the authority immediately because—

(i) for a prohibited matter or restricted matter permit—there would be an immediate and serious risk to a biosecurity consideration if the holder of the permit were to continue to deal with prohibited matter or restricted matter; or

(ii) for an accreditation—there would be an immediate and serious risk to a biosecurity consideration, or to the trade in a particular commodity, if the holder of the accreditation were to continue to give biosecurity certificates; or

Example of a circumstance where the chief executive may immediately suspend an accreditation under subparagraph (ii)—

A person conducting a business is accredited to certify the post-harvest treatment of stonefruit with an agricultural chemical in a way consistent with an operational procedure under the ICA scheme. The chief executive becomes aware that the Australian Pesticides and Veterinary Medicines Authority subsequently makes the use of the chemical unlawful due to the risks the chemical poses to human health. The chief executive may suspend the person's accreditation immediately to avoid potential harm to human health.

(iii) for an approval to operate an approved biosecurity accreditation scheme—there would be an immediate and serious risk to a biosecurity consideration, or to the trade in a particular commodity, if the holder of the approval were to continue to operate the scheme; or

(iv) for an auditor's approval—there would be an immediate and serious risk to a biosecurity consideration, or to the trade in a particular

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commodity, if the holder of the approval were to continue to conduct audits.

(2) The suspension—

(a) can be effected only by the chief executive giving an information notice for the decision to the holder, together with a show cause notice; and

(b) operates immediately the notices are given to the holder; and

(c) continues to operate until the earliest of the following happens—

(i) the chief executive cancels the remaining period of suspension;

(ii) the show cause notice is finally dealt with;

(iii) 56 days have passed since the notices were given to the holder.

(3) Subsection (4) applies if—

(a) a suspension under this section stops because—

(i) the chief executive cancels the remaining period of suspension; or

(ii) the show cause notice is finally dealt with by a decision being made not to cancel or suspend the relevant authority; or

(iii) 56 days have passed since the notices mentioned in subsection (2)(a) were given to the holder; and

(b) the holder has returned the relevant authority to the chief executive as required under section 491.

(4) The chief executive must as soon as practicable give the relevant authority to the holder.

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489 Amendment of relevant authority without show cause notice—minor amendment

(1) The procedures otherwise required to be followed under this chapter for the amendment of a relevant authority are not required to be followed if—

(a) the chief executive proposes to amend the relevant authority only—

(i) for a formal or clerical reason; or

(ii) in another way that does not adversely affect the interests of the holder of the authority; or

(b) the holder of the relevant authority asks the chief executive to amend the authority other than by formal application under part 2 and the chief executive proposes to give effect to the request.

(2) The chief executive may amend the relevant authority by notice given to the holder.

490 Cancellation of relevant authority without show cause notice

(1) The procedures otherwise required to be followed under this chapter for the cancellation of a relevant authority are not required to be followed if the holder of the relevant authority asks the chief executive to cancel the authority and the chief executive proposes to give effect to the request.

(2) The chief executive may cancel the relevant authority by notice given to the holder.

491 Return of cancelled, suspended or amended relevant authority

(1) This section applies if the chief executive cancels, suspends or amends a relevant authority under this chapter.

(2) The chief executive may, by notice given to the holder of the authority, require the holder to return the document

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evidencing the authority to the chief executive within 14 days, or a later stated time.

(3) The holder must comply with the notice, unless the holder has a reasonable excuse for not complying with it.

Maximum penalty—40 penalty units.

(4) If the document for a suspended relevant authority has been returned to the chief executive, the chief executive must return the document to the holder of the relevant authority at the end of the suspension period.

(5) If the document for an amended relevant authority has been returned to the chief executive, the chief executive must return the document to the holder of the relevant authority after amending it.

(6) However, the amendment of a relevant authority does not depend on the document for the authority being returned to the chief executive by the holder of the authority or by the chief executive to the holder of the authority.

(7) The chief executive is not required to return the document for a relevant authority that is cancelled.

Chapter 18 Miscellaneous

492 Inconsistencies in scientific name or common name for relevant biosecurity matter

(1) This section applies if an authoritative document refers to relevant biosecurity matter by a scientific name or common name that varies in a minor way from the scientific name or common name given to the relevant biosecurity matter under this Act.

(2) The relevant biosecurity matter mentioned in the authoritative document is taken to be the same relevant biosecurity matter under this Act.

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(3) In this section—

authoritative document means a document, including a scientific journal, that lists the scientific name or common name of prohibited matter or restricted matter.

relevant biosecurity matter means any of the following—

(a) prohibited matter;

(b) restricted matter;

(c) controlled biosecurity matter;

(d) regulated biosecurity matter.

493 Confidentiality of information

(1) This section applies to a person who is, or was—

(a) the chief executive; or

(b) a chief executive officer; or

(c) an inspector; or

(d) an authorised person; or

(e) a director of an invasive animal board; or

(f) a barrier fence employee; or

(g) another person involved in administering this Act or a repealed Act, including, for example, an officer or employee of the department or an employee of a local government.

(2) The person must not disclose confidential information gained by the person in administering or performing a function under this Act or a repealed Act.

Maximum penalty—50 penalty units.

(3) However, the person may disclose confidential information if—

(a) the disclosure is for a purpose under this Act; or

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(b) the disclosure is for the purpose of minimising biosecurity risks in the State or another State and the disclosure is to any of the following—

(i) the State;

(ii) a department;

(iii) an entity, established under an Act, that deals with matters relating to biosecurity;

(iv) a local government;

(v) the Commonwealth or another State, or an entity of the Commonwealth or another State; or

(c) the disclosure is with the consent of the person to whom the information relates; or

(d) the disclosure is otherwise required or permitted by law.

(4) In this section—

confidential information—

(a) means any information that—

(i) could identify an individual; or

(ii) is about a person's current financial position or financial background; or

(iii) would be likely to damage the commercial activities of a person to whom the information relates; but

(b) does not include—

(i) information that is publicly available; or

(ii) statistical or other information that could not reasonably be expected to result in the identification of the individual to whom it relates.

494 Personal information on register under this Act

(1) This section applies if an administrator is satisfied someone's personal safety would be put at risk if particular information

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(for example, the person's address or other contact details) were included in a register that the administrator is required to keep under this Act.

(2) The administrator must ensure the information is not included in—

(a) a part of the register that is available to the public; or

(b) a copy of information from the register, whether or not the information is from a part of the register that is available to the public.

(3) If a provision of this Act requires or permits the information to be published on a website, the administrator must, despite the provision, ensure the information is not published on the website.

(4) In this section—

administrator means—

(a) the chief executive; or

(b) a chief executive officer of a local government; or

(c) the chairperson of an invasive animal board.

495 Delegation by chief executive

(1) The chief executive may delegate the chief executive's functions and powers under this Act to an appropriately qualified public service employee.

(2) Subsection (1) does not apply to the following functions and powers of the chief executive—

(a) making an emergency prohibited matter declaration;

(b) making a biosecurity emergency order;

(c) making a movement control order;

(d) acting under the authority of biosecurity zone regulatory provisions to provide for either or both of the following—

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(i) the establishment of particular areas within a biosecurity zone;

(ii) the application, in relation to areas mentioned in subparagraph (i), or areas otherwise established under the biosecurity zone regulatory provisions, of lesser restrictions than would otherwise apply under the biosecurity zone regulatory provisions;

(e) authorising a surveillance program or a prevention and control program.

496 Protecting officials from liability

(1) An official does not incur civil liability for engaging, or for the result of engaging, in conduct under this Act.

(2) If subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to—

(a) if the official is the chief executive officer of a local government, an authorised person appointed by the chief executive officer of a local government or a person acting under the direction of an authorised person appointed by the chief executive officer of a local government—the local government; or

(b) otherwise—the State.

(3) For this section, it does not matter what is the form of appointment or employment of a person who is a public service officer or public service employee.

(4) If liability attaches to a local government under subsection (2)(a), the local government may recover contribution from the official but only if the conduct was engaged in—

(a) other than in good faith; and

(b) with gross negligence.

(5) If liability attaches to the State under subsection (2)(b), the State may recover contribution from the official but only if the conduct was engaged in—

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(a) other than in good faith; and

(b) with gross negligence.

(6) In a proceeding under subsection (4) or (5) to recover contribution, the amount of contribution recoverable is the amount found by the court to be just and equitable in the circumstances.

(7) This section does not apply to a person—

(a) who is a prescribed person under the *Public Sector Act 2022*, section 267 engaging in conduct in an official capacity under section 269 of that Act; or

Note—

For protection from civil liability in relation to prescribed persons under the *Public Sector Act 2022*, section 267, see the *Public Sector Act 2022*, section 269.

(b) to whom the *Police Service Administration Act 1990*, section 10.5 applies.

(8) In this section—

civil liability includes liability for the payment of costs ordered to be paid in a proceeding for an offence against this Act.

conduct means an act or an omission to perform an act.

engage in conduct under this Act means engage in conduct as part of, or otherwise in connection with, a person's role, as an official, under the Act, including, for example, engaging in conduct under or purportedly under the Act.

Example of an official engaging in conduct under this Act—

an official making a decision in relation to an application for registration of a registrable biosecurity entity

official means—

(a) a chief executive officer; or

(b) an authorised officer; or

(c) a person acting under the direction of an authorised officer; or

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(d) a director of an invasive animal board; or

(e) a barrier fence employee; or

(f) a person acting under the direction of a barrier fence employee.

497 Public officials for Police Powers and Responsibilities Act

The following persons are declared to be public officials for the *Police Powers and Responsibilities Act 2000*—

(a) the chief executive;

(b) a chief executive officer;

(c) an authorised officer;

(d) a director of an invasive animal board;

(e) a barrier fence employee.

498 Limitation of review

(1) Unless there is a determination by the Supreme Court that the chief executive's decision to make a biosecurity response instrument is affected by jurisdictional error, a relevant matter—

(a) is final and conclusive; and

(b) can not be challenged, appealed against, reviewed, quashed, set aside or called into question in another way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and

(c) is not subject to any writ or order of the Supreme Court, another court, a tribunal or another entity on any ground.

(2) Without limiting subsection (1), a person may not bring a proceeding for an injunction, or for any writ, declaration or other order, to stop or otherwise restrain the performance of a relevant act.

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(3) This section does not stop a person from bringing a proceeding to recover damages for loss or damage caused by—

(a) a negligent act or omission in the performance of an act; or

(b) an unlawful act.

(4) Subsection (5) applies if the Supreme Court makes a determination of jurisdictional error as mentioned in subsection (1).

(5) Without limiting what the court may take into account in deciding whether to make an order, or the terms of any order it may make, the court may take into account any of the following—

(a) the ability of the court to assess the level of the biosecurity risk at which the biosecurity response instrument is directed;

(b) the effect that an order of the court would have on preventing the impact on a biosecurity consideration of a biosecurity risk;

(c) the urgency of the matter the subject of the biosecurity response instrument;

(d) the desirability of the court delaying the issue of an order that would prevent implementation of the chief executive's decision for a period sufficient to allow the emergency nature of the circumstances to abate.

(6) In this section—

biosecurity response instrument means an emergency prohibited matter declaration, a biosecurity emergency order or a movement control order.

decision includes—

(a) conduct engaged in to make a decision; and

(b) conduct related to making a decision; and

(c) failure to make a decision.

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relevant act means an act directed or authorised, or purportedly directed or authorised, under a biosecurity response instrument as made or purportedly made.

relevant matter means—

(a) the chief executive's decision to make a biosecurity response instrument; or

(b) the making or purported making of a biosecurity response instrument; or

(c) a biosecurity response instrument as made or purportedly made; or

(d) the performance or purported performance of a relevant act; or

(e) an obligation to perform a relevant act.

499 Service of documents

(1) If a document is required or permitted under this Act to be given to a person, the document may be given to the person by facsimile transmission directed and sent to—

(a) the last transmission number given to the giver of the document by the person as the facsimile transmission number for service of documents on the person; or

(b) the facsimile transmission number operated—

(i) at the address of the person last known to the giver of the document; or

(ii) if the person is a corporation, at the corporation's registered office under the Corporations Act; or

(iii) if the person is an incorporated association, at the association's nominated address under the *Associations Incorporation Act 1981*.

(2) A document given under subsection (1) is taken to have been given on the day the document is transmitted.

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500 Application of Acts to local governments

This Act and, for the purposes of this Act, other Acts apply to a local government in the same way as they apply to a body corporate.

501 Review of Act

The Minister must review the efficacy and efficiency of this Act within 3 years after its commencement.

502 Approval of forms

The chief executive may approve forms for use under this Act.

503 Regulation-making power

(1) The Governor in Council may make regulations under this Act.

(2) A regulation may be made about the following—

(a) fees payable under this Act;

(b) ways in which a person's general biosecurity obligation can be discharged to prevent or minimise a biosecurity risk;

(c) measures to prevent or control the spread of biosecurity matter;

(d) ways of destroying, demolishing or disposing of biosecurity matter or a carrier;

(e) maximum acceptable levels of contaminants in carriers;

(f) declarations of entities as invasive animal boards;

(g) imposing a penalty of no more than 20 penalty units for contravention of a provision of a regulation.

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Chapter 19 Repeal, savings and transitional provisions

Part 1 Repeal of Acts

504 Repeal of Acts

The following Acts are repealed—

(a) Agricultural Standards Act 1994, No. 79;

(b) Apiaries Act 1982, No. 29;

(c) Diseases in Timber Act 1975, No. 49;

(d) Exotic Diseases in Animals Act 1981, No. 13;

(e) Plant Protection Act 1989, No. 14;

(f) Stock Act 1915, 6 Geo 5, No. 16.

Part 2 Savings and transitional provisions for Act No. 7 of 2014

Division 1 General transitional matters

Subdivision 1 Purposes and definitions

505 Main purposes of pt 2

The main purposes of this part are—

(a) to provide for provisions of this Act that are substantially the same as repealed provisions of a repealed Act or the amended Act to be dealt with as replacements of the repealed provisions; and

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(b) without limiting paragraph (a), if a matter was dealt with in a repealed Act or the amended Act, by providing for something to be dealt with under the repealed Act or the amended Act, to provide for the continuation of the matters under this Act; and

(c) to provide for matters that were not dealt with in a repealed Act or the amended Act that are dealt with under this Act.

506 Definitions for pt 2 and sch 3

In this part and schedule 3—

amended Act—

(a) generally—means the *Stock Route Management Act 2002*; and

(b) for schedule 3, part 3—see schedule 3, part 3, section 76.

commencement means the day this section commences.

corresponding provision, for a previous provision of a repealed Act or the amended Act, means a provision of this Act that is substantially the same as or equivalent to the previous provision of the repealed Act or the amended Act.

made includes given and issued.

obligation includes duty.

previous, for a stated provision of a repealed Act or the amended Act that includes a number, means the provision of the repealed Act or the amended Act with that number immediately before the commencement.

previous provision, of a repealed Act or the amended Act, means a provision of the repealed Act or the amended Act, as in force immediately before the commencement.

protection includes a statement to the effect of any of the following—

(a) that there is no liability;

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(b) that there is no invalidity;

(c) that a person has an entitlement.

Subdivision 2 General approach

507 Document, action, obligation or protection under previous provision of repealed Act or amended Act

(1) This section applies to any of the following—

(a) a document made or kept under a previous provision of a repealed Act or the amended Act if the document continued to have effect or was in force immediately before the commencement;

(b) an action done under a previous provision of a repealed Act or the amended Act if the action continued to have effect immediately before the commencement;

(c) an entity's obligation under a previous provision of a repealed Act or the amended Act if the obligation applied to the entity immediately before the commencement;

(d) an entity's protection under a previous provision of a repealed Act or the amended Act that applied to the entity immediately before the commencement.

(2) Subject to a specific provision of this Act in relation to the document, action, obligation or protection, if there is a corresponding provision for the previous provision, the document, action, obligation or protection—

(a) continues in force or to have effect according to its terms; and

(b) may be taken to have been made, kept or done under the corresponding provision.

(3) Subsection (2)(b) applies whether or not the previous provision refers to the document, action, obligation or

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protection by reference to a provision of the repealed Act or the amended Act.

Note—

Schedule 3, part 1 provides examples of the operation of this section.

508 Things continued in force under repealed Act or amended Act

(1) This section applies to a thing (the ***thing***) that happened under an Act other than a repealed Act or the amended Act but that, under a previous provision of a repealed Act or the amended Act, continued to have effect.

(2) If the thing is in effect immediately before the commencement, the thing continues to have effect under this Act.

(3) Matters in relation to the thing are to be done under this Act unless a previous provision of a repealed Act or the amended Act provides otherwise, and for that purpose, the provision continues to have effect.

(4) This section does not limit section 507 or another provision of this part about the thing.

509 Terminology in things mentioned in s 507(1)

(1) This section applies to a document (the ***relevant document***) that is—

(a) a document mentioned in section 507(1); or

(b) evidence of a document, action, obligation or protection mentioned in section 507(1).

(2) A reference in the relevant document to a document, action, obligation or protection mentioned in section 507(1) is to be read, if the context permits and with the necessary changes to terminology, as if the document, action, obligation or protection were made, kept, done or otherwise provided for under this Act.

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Example for subsection (2)—

An instrument of appointment given under a repealed Act by the chief executive to an inspector limiting the powers of the inspector is to be read as if the instrument limited the powers of the inspector under this Act.

510 Period stated in previous provision

(1) This section applies if, in a previous provision of a repealed Act or the amended Act, there is a period for doing something, and the period for doing the thing started but did not finish before the commencement.

(2) If there is a corresponding provision to the previous provision of the repealed Act or the amended Act and both the corresponding provision and the previous provision provide for the same period, the period for doing the thing continues to have started from when the period started under the previous provision but ends under the corresponding provision.

511 Period or date stated in document given under previous provision

(1) This section applies if—

(a) a previous provision of a repealed Act or the amended Act provided for a document to be made under it; and

(b) there is a corresponding provision to the previous provision; and

(c) under the previous provision and before the commencement, a document was given to a person, whether or not the person had received the document before the commencement.

Example for paragraph (c)—

a notice under the *Stock Route Management Act 2002*, previous section 270, that states a period within which a person who is in control of a thing to be seized must take the thing to a place stated in the notice

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(2) If the document stated a period for doing something—

(a) the stated period continues to apply for doing the thing; and

(b) the period continues to have started from when the period started under the previous provision of the repealed Act or the amended Act.

(3) If the document stated a day before which, or by which, a thing is to be done (however expressed), the thing must be done by the stated day.

512 Action happening before commencement may be relevant to proceeding for particular acts or omissions

(1) An action mentioned in section 507(1)(b) is not precluded from having relevance to a proceeding relating to a contravention of a provision of this Act involving an act or omission that happened after the commencement.

(2) This section does not limit the *Acts Interpretation Act 1954*, section 20C.

(3) In this section—

contravention includes an alleged contravention.

513 Acts Interpretation Act 1954, s 20 not limited

This chapter and schedule 3 do not limit the *Acts Interpretation Act 1954*, section 20.

Division 2 Particular transitional matters

514 Transitional provisions for particular matters in sch 3

(1) For the operation of particular chapters of this Act, schedule 3, part 1 provides examples of matters dealt with under a repealed Act or the amended Act.

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(2) Schedule 3, part 2 provides for general transitional matters for repealed Acts and the amended Act.

(3) Schedule 3, part 3 provides for particular transitional matters for repealed provisions or amended provisions of Acts.

Part 3 Transitional provision for Agriculture and Other Legislation Amendment Act 2020

515 Proceedings for particular offences

(1) This section applies in relation to an offence against the *Biosecurity Regulation 2016*, section 41C, as in force immediately before the commencement, committed by a person before the commencement.

(2) Without limiting the *Acts Interpretation Act 1954*, section 20, a proceeding for the offence may be continued or started, and the person may be convicted of and punished for the offence, as if the *Agriculture and Other Legislation Amendment Act 2020*, section 46 had not commenced.

(3) Subsection (2) applies despite the Criminal Code, section 11.

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Schedule 1 Prohibited matter

section 29

Note—

Biosecurity matter may also be declared to be, or not to be, prohibited matter under a prohibited matter regulation or emergency prohibited matter declaration under chapter 2.

Part 1 Aquatic diseases, parasites and viruses

abalone viral ganglioneuritis

acute hepatopancreatic necrosis syndrome (AHPNS)

akoya oyster disease

bacterial kidney disease (*Renibacterium salmoninarum*)

infection with *Bonamia exitiosa*

infection with *Bonamia ostreae*

channel catfish virus disease

crayfish plague (*Aphanomyces astaci*)

enteric redmouth disease (Hagerman strain of *Yersinia ruckeri*)

enteric septicaemia of catfish (*Edwardsiella ictaluri*)

epizootic haematopoietic necrosis—EHN virus

epizootic haematopoietic necrosis—European catfish virus/European sheatfish virus

furunculosis (*Aeromonas salmonicida* subsp. *salmonicida*)

grouper iridoviral disease

gyrodactylosis (*Gyrodactylus salaris*)

infectious haematopoietic necrosis

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infectious myonecrosis

infectious pancreatic necrosis

infectious salmon anaemia

iridoviroses of molluscs

koi herpesvirus disease

infection with *Marteilia refringens*

infection with *Marteilioides chungmuensis*

infection with *Mikrocytos mackini*

milky haemolymph disease of spiny lobster (*Panulirus* spp.)

monodon slow growth syndrome

necrotising hepatopancreatitis

infection with *ostreid herpesvirus 1* (OsHV-1)

oyster oedema disease

infection with *Perkinsus marinus*

piscirickettsiosis (*Piscirikettsia salmonis*)

red sea bream iridoviral disease

spring viraemia of carp

Taura syndrome

viral haemorrhagic septicaemia

whirling disease (*Myxobolus cerebralis*)

white spot disease

yellowhead disease

infection with *Xenohaliotis californiensis*

Part 2 Animal diseases, parasites and viruses

acariasis (tracheal mite (*Acarapis woodi*))

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African horse sickness

African swine fever

Aujeszky's disease

avian influenza, highly pathogenic

avian paramyxovirus (serotypes 2-9)

bee louse (Braula fly) (*Braula coeca*)

bluetongue (clinical disease)

borna disease

bovine virus diarrhoea type 2

brucellosis (*Brucella abortus*, *B. canis* and *B. melitensis*)

camel pox

Chagas disease (*Trypanosoma cruzi*)

classical swine fever

contagious agalactia

contagious bovine pleuropneumonia (*Mycoplasma mycoides mycoides* small colony type)

contagious caprine pleuropneumonia (*Mycoplasma capricolum*)

contagious equine metritis (*Taylorella equigenitalis*)

Crimean Congo haemorrhagic fever

devil facial tumour disease

dourine (*Trypanosoma equiperdum*)

duck virus enteritis (duck plague)

duck virus hepatitis

east coast fever

encephalitides (tick-borne)

enzootic abortion of ewes (*Chlamydophila abortus* and *Chlamydia psittaci* serotype 1)

epizootic haemhorragic disease (clinical disease)

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epizootic lymphangitis (*Histoplasma capsulatum* var. *farciminosum*)

equine encephalomyelitis viruses (western, eastern and Venezuelan)

equine encephalosis

equine influenza

equine piroplasmosis (*Babesia caballi*, *B. equi* and *Theileria equi*)

foot and mouth disease

footrot in sheep (*Dichelobacter nodosus*)

fowl typhoid (*Salmonella gallinarum*)

getah virus

glanders (*Burkholderia mallei*)

goat pox

haemorrhagic septicaemia

heartwater (*Ehrlichia ruminantium*)

infectious bursal disease (hypervirulent and exotic antigenic variant forms)

jembrana disease

louping ill

lumpy skin disease

lyssavirus other than Australian bat lyssavirus

maedi-visna

malignant catarrhal fever virus (wildebeest-associated)

menangle virus

Nairobi sheep disease

Newcastle disease (virulent)

nipah virus

peste des petits ruminants

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porcine cysticercosis (*Cysticercus cellulosae*)

porcine enterovirus encephalomyelitis (Teschen)

porcine myocarditis (Bungowannah virus infection)

porcine reproductive and respiratory syndrome

post-weaning multisystemic wasting syndrome

Potomac fever

pullorum disease (*Salmonella pullorum*)

pulmonary adenomatosis (Jaagsietke)

Rift Valley fever

rinderpest

salmonellosis (*Salmonella abortus equi*)

salmonellosis (*Salmonella abortus ovis*)

screw worm fly – New World (*Cochliomyia hominivorax*)

screw worm fly – Old World (*Chrysomya bezziana*)

sheep pox

sheep scab (*Psoroptes ovis*)

surra (*Trypanosoma evansi*)

swine influenza other than H1N1

swine vesicular disease

transmissible gastroenteritis

transmissible spongiform encephalopathies (including bovine spongiform encephalopathy, chronic wasting disease of deer, feline spongiform encephalopathy, scrapie)

trichinellosis (*Trichinella spiralis*)

tropilaelaps mite (*Tropilaelaps clareae* and *T. mercedesae*)

trypanosomiasis

tuberculosis (mammalian)

tularaemia (*Francisella tularensis*)

turkey rhinotracheitis (*Avian metapneumovirus*)

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varroa mite (*Varroa destructor*)

varroa mite (*Varroa jacobsoni*)

vesicular exanthema

vesicular stomatitis

warble fly myiasis (*Hypoderma* spp.)

Wesselsbron disease

West Nile virus infection (clinical)

Part 3 Invasive biosecurity matter—invasive plants

acacias non-indigenous to Australia (*Acaciella* spp., *Mariosousa* spp., *Senegalia* spp. and *Vachellia* spp. other than *Vachellia nilotica*, *Vachellia farnesiana*)

anchored water hyacinth (*Eichhornia azurea*)

annual thunbergia (*Thunbergia annua*)

bitterweed (*Helenium amarum*)

candleberry myrtle (*Morella faya*)

cholla cactus (*Cylindropuntia* spp. and hybrids other than *C. fulgida*, *C. imbricata*, *C. prolifera*, *C. rosea*, *C. spinosior* and *C. tunicata*)

Christ's thorn (*Ziziphus spina-christi*)

Eurasian water milfoil (*Myriophyllum spicatum*)

fanworts (*Cabomba* spp. other than *C. caroliniana*)

floating water chestnuts (*Trapa* spp.)

harrisia cactus (*Harrisia* spp. syn. *Eriocereus* spp. other than *H. martinii*, *H. tortuosa* and *H. pomanensis* syn. *Cereus pomanensis*)

honey locust (*Gleditsia* spp. other than *G. triacanthos*)

horsetails (*Equisetum* spp.)

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kochia (*Bassia scoparia* syn. *Kochia scoparia*)

lagarosiphon (*Lagarosiphon major*)

mesquites (all *Prosopis* spp. and hybrids other than *P. glandulosa*, *P. pallida* and *P. velutina*)

Mexican bean tree (all *Cecropia* spp. other than *C. pachystachya*, *C. palmata* and *C. peltata*)

miconia (*Miconia* spp. other than *M. calvescens*, *M. cionotricha*, *M. nervosa* and *M. racemosa*)

mikania (*Mikania* spp. other than *M. micrantha*)

Peruvian primrose bush (*Ludwigia peruviana*)

prickly pear (*Opuntia* spp. other than *O. aurantiaca*, *O. elata*, *O. ficus-indica*, *O. microdasys*, *O. monacantha*, *O. stricta*, *O. streptacantha* and *O. tomentosa*)

red sesbania (*Sesbania punicea*)

salvinias (*Salvinia* spp. other than *S. molesta*)

serrated tussock (*Nassella trichotoma*)

Siam weed (*Chromolaena* spp. other than *C. odorata* and *C. squalida*)

spiked pepper (*Piper aduncum*)

tropical soda apple (*Solanum viarum*)

water soldiers (*Stratiotes aloides*)

witch weeds (*Striga* spp. other than native species)

Part 4 Invasive biosecurity matter—invasive animals

All amphibians, mammals and reptiles other than the following—

amphibians, mammals and reptiles that are restricted matter

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amphibians, mammals and reptiles indigenous to Australia, including marine mammals of the orders Cetacea, Pinnipedia and Sirenia

alpaca (*Lama pacos*)

asian house gecko (*Hemidactylus frenatus*)

axolotl (*Ambystoma mexicanum*)

bison or American buffalo (*Bison bison*)

black rat (*Rattus rattus*)

camel (*Camelus dromedarius*)

cane toad (*Rhinella marina* syn. *Bufo marinus*)

cat (*Felis catus* and *Prionailurus bengalensis* x *Felis catus*)

cattle (*Bos* spp.)

chital (axis) deer (*Axis axis*)

dog (*Canis lupus familiaris*)

donkey (*Equus asinus*)

European hare (*Lepus europaeus*)

fallow deer (*Dama dama*)

goat (*Capra hircus*)

guanicoe (*Lama guanicoe*)

guinea pig (*Cavia porcellus*)

horse (*Equus caballus*)

house mouse (*Mus musculus*)

llama (*Lama glama*)

mule (*Equus caballus* x *Equus asinus*)

pig (*Sus scrofa*)

red deer (*Cervus elaphus*)

rusa deer (*Rusa timorensis* syn. *Cervus timorensis*)

sewer rat (*Rattus norvegicus*)

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sheep (*Ovis aries*)

water buffalo (*Bubalus bubalis*)

Part 5 Marine animals and plants

American slipper limpet (*Crepidula fornicata*)

Asian bag mussel, Asian date mussel (*Musculista senhousia*)

Asian clam, brackish-water corbula (*Corbula* (Potamocorbula) *amurensis*)

Asian green mussel (*Perna viridis*)

Asian seaweed (*Sargassum muticum*)

black striped mussel (*Mytilopsis sallei*)

brown mussel (*Perna perna*)

centric diatoms (*Chaetoceros concavicorne*, *C. convolutes*)

Chinese mitten crab (*Eriocheir* spp.)

colonial sea squirt (*Didemnum* spp.)—exotic invasive strains

comb jelly (*Mnemiopsis leidyi*)

European barnacle (*Balanus improvisus*)

European clam (*Varicorbula gibba*)

European fan worm (*Sabella spallanzanii*)

European green crab (*Carcinus maenas*)

green macroalga (*Caulerpa taxifolia*)—exotic strains

green macroalga (*Codium fragile* ssp. *tomentosoides*)

jack-knife clam (*Ensis directus*)

Japanese/Asian shore crab (*Hemigrapsus sanguineus*)

Japanese seaweed (*Undaria pinnatifida*)

lady crab (*Charybdis japonica*)

marbled spinefoot, rabbit fish (*Siganus rivulatus*)

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New Zealand screwshell (*Maoricolpus roseus*)

northern Pacific seastar (*Asterias amurensis*)

Pacific crab (*Hemigrapsus takanoi/penicillatus*)

Pacific oyster (*Crassostrea gigas*)

pennate diatom (*Pseudo-mitzschia seriata*)

rapa whelk (*Rapana venosa* (syn *Rapana thomasiana*))

red gilled mudworm (*Marenzelleria* spp.)

red macroalga (*Grateloupia turuturu* (syn *Grateloupia doryphora*))

round goby (*Neogobius melanostomus*)

soft shell clam (*Mya arenaria*)

toxic dinoflagellates (*Dinophysis norvegica*, *Alexandrium monilatum* and *Pfiesteria piseicida*)

Part 6 Noxious fish

aba aba (*Gymnarchus niloticus*)

Adriatic sturgeon (*Acipenser naccarii*)

African butter catfish (*Schilbe mystus*)

African lungfish (*Protopterus annectens*)

African pike (*Hepsetus odoe*)

African pike-characin, tubenose poacher, fin eater (fish of the subfamily *Ichthyborinae*)

Alfaro huberi (*Alfaro huberi*)

American gar, alligator gar, armoured gar (*Atractosteus* spp. and *Lepisosteus* spp.) other than *Atractosteus spatula* and *Lepisosteus oculatus*

Amur sturgeon (*Acipenser schrenckii*)

angler catfish (*Chaca bankanensis*)

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Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*)

Baikal sturgeon (*Acipenser baerii baicalensis*)

banded jewelfish (*Hemichromis fasciatus*)

banded sunfish, spotted sunfish (family *Centrachidae*)

barred tail pearlfish (*Leptolebias minimus*)

beluga (*Huso huso*)

bighead carp (*Aristichthys nobilis*)

bigmouth sleeper (*Gobiomorus dormitory*)

bluegill (*Lepomis* spp.)

bottlenose, cornish jack (*Mormyrops anguilloides*)

bowfin (*Amia calva*)

brook stickleback (*Culaea inconstans*)

burmensis frogmouth catfish (*Chaca burmensis*)

catla (*Catla catla*)

chameleon goby, striped goby (*Tridentiger trigonocephalus*)

channel catfish (*Ictalurus punctatus*)

Chinese sturgeon (*Acipenser sinensis*)

Chinese swordfish (*Psephurus gladius*)

copper mahseer (*Neolissochilus hexagonolepis*)

discus ray (*Paratrygon aiereba*)

electric catfish (*Malapterurus* spp.)

electric eel (*Electrophorus electricus*)

European catfish, wels catfish (*Silurus* spp.)

European sturgeon (*Acipenser sturio*)

fat sleeper (*Dormitator maculatus*)

flatnose catfish, dwarf giraffe catfish (*Anaspidoglanis macrostomus*)

forktail lates (*Lates microlepis*)

fourspine stickleback (*Apeltes quadracus*)

freshwater minnow (*Zacco platypus*)

fringebarbel sturgeon (*Acipenser nudiventris*)

frogmouth catfish, squarehead catfish (*Chaca chaca*)

gambusia, mosquito fish (*Gambusia* spp.) other than *Gambusia holbrooki*

giant barb (*Catlocarpio siamensis*)

giant bully (*Gobiomorphus gobioides*)

gilled lungfish (*Protopterus amphibius*)

grass carp (*Ctenopharyngodon idella*)

green sturgeon (*Acipenser medirostris*)

Gulf sturgeon (*Acipenser oxyrinchus destotoi*)

Hypseleotris tohizonae (*Hypseleotris tohizonae*)

Japanese sturgeon (*Acipenser multiscutatus*)

knife-edged livebearer (*Alfaro cultratus*)

lake sturgeon (*Acipenser fulvescens*)

largemouth bass (*Micropterus salmoides*)

Leptolebias aureoguttatus (*Leptolebias aureoguttatus*)

marbled pearlfish (*Leptolebias marmoratus*)

marble goby (*Oxyeleotris marmorata*)

Mekong giant catfish (*Pangasianodon gigas*)

Mississippi paddlefish (*Polyodon spathula*)

mrigal (*Cirrhinus cirrhosus*)

Nile perch (*Lates niloticus*)

ninespine stickleback (*Pungitius pungitius*)

opal pearlfish (*Leptolebias opalescens*)

orange-fin labeo (*Labeo calbasu*)

Oxyeleotris siamensis (*Oxyeleotris siamensis*)

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Oxyeleotris urophthalmoides (*Oxyeleotris urophthalmoides*)

Oxyeleotris urophthalmus (*Oxyeleotris urophthalmus*)

Pacific fat sleeper (*Dormitator latifrons*)

Pacific sleeper (*Gobiomorus maculatus*)

Pangasius conchophilus (*Pangasius conchophilus*)

Pangasius elongatus (*Pangasius elongatus*)

Pangasius krempfi (*Pangasius krempfi*)

Pangasius kunyit (*Pangasius kunyit*)

Pangasius macronema (*Pangasius macronema*)

Pangasius nasutus (*Pangasius nasutus*)

Pangasius nieuwenhuisii (*Pangasius nieuwenhuisii*)

parasitic catfish, pencil catfish, candiru catfish (family *Trichomycteridae*)

Persian sturgeon (*Acipenser persicus*)

pike characin (*Acestrorhynchus microlepis*)

pike cichlid (*Crenicichla* spp.)

pike minnow, pike killifish (*Belonesox belizanus*)

pikes (*Esox* spp.)

pink, slender, greenwoods, mortimers, cunean and green happy (*Sargochromis* spp.)

piranhas, pacus (fish of the subfamily *Serrasalminae*) other than *Metynnis* spp., *Myloplus rubripinnis*, *Myloplus asterias*, *Myloplus planquettei* and *Piaractus brachypomus*

purpleface largemouth (*Serranochromis* spp.)

pygmy sunfish (*Elassoma* spp.)

redfin bully (*Gobiomorphus huttoni*)

red swamp crayfish (*Procambarus clarkii*)

reedfish (*Erpetoichthys calabaricus*)

ripsaw catfish, black doras, black shielded catfish (*Oxydoras* spp.)

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river carp, deccan, high backed, jungha, putitor, Thai mahseer (*Tor* spp.)

rohu (Labeo rohita)

Russian sturgeon (*Acipenser gueldenstaedtii*)

Sakhalin sturgeon (*Acipenser mikadoi*)

Sentani gudgeon (*Oxyeleotris heterodon*)

shiners (*Notropis* spp.)

shortnose sturgeon (*Acipenser brevirostrum*)

shoulderspot catfish (*Schilbe marmoratus*)

Siberian sturgeon (*Acipenser baerii baerii*)

silver carp (*Hypophthalmichthys molitrix*)

silver catfish (*Schilbe intermedius*)

slender lungfish (*Protopterus dolloi*)

snakehead (*Channa* spp.)

snooks (*Centropomus* spp.)

South American lungfish (*Lepidosiren paradoxa*)

Southern redbelly dace (*Phoxinus erythrogaster*)

spot pangasius (*Pangasius larnaudii*)

starry sturgeon (*Acipenser stellatus*)

sterlet (*Acipenser ruthenus*)

stinging catfish (*Heteropneustes fossilis*)

tiger catfish (*Pseudoplatystoma fasciatum*)

tigerfish (African), pike characin (*Hydrocynus* spp., subfamilies *Hydrocyninae* and *Alestinae*)

tigerfish (South American) or trahira (*Erythrinus* spp., *Hoplerythrinus* spp. and *Hoplias* spp.)

tilapia (*Sarotherodon* spp., *Oreochromis* spp. and *Tilapia* spp.) other than *Oreochromis mossambicus* and *Tilapia mariae*

Tomeurus gracilis (*Tomeurus gracilis*)

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tropical carp-gudgeon (*Hypseleotris cyprinoides*)

twospot lebiasina (*Lebiasina bimaculata*)

twospot livebearer (*Heterandria bimaculata*)

Ubangi shovelnose catfish (*Bagrus ubangensis*)

Valencia toothcarp (*Valencia hispanica*)

walking catfish, airbreathing catfish (family *Clariidae*)

white sturgeon (*Acipenser transmontanus*)

Yangtze sturgeon (*Acipenser dabryanus*)

yellowbelly gudgeon (*Allomogurnda nesolepis*)

yellowfin goby (*Acanthogobius flavimanus*)

yellowtailed catfish (*Pangasius pangasius*)

Part 7 Prohibited matter affecting plants

Africanised bee (*Apis mellifera scutellata*)

ampelopsis rust (*Physopella ampelopsidis*)

angular leaf spot of strawberry (*Xanthomonas fragariae*)

apple leaf curling midge (*Dasyneura mali*)

armyworm (*Mythimna unipuncta*)

Asian citrus psyllid (*Diaphorina citri*)

Asian honey bee (*Apis dorsata*, *A. florea*, *A. cerana* other than *A. cerana javana*)

Asian sugarcane planthopper (*Perkinsiella thompsoni*)

bacterial blight, angular leaf spot (*Xanthomonas axonopodis* pv. *malvacearum*)—resistant strains

bacterial heart and fruit rot of pineapple (*Dickeya* sp.)

bacterial leaf blight of maize (*Pantoea stewartii* subsp. *stewartii*)

Authorised by the Parliamentary Counsel

bacterial ring rot of potato (*Clavibacter michiganensis* subsp. *sepedonicus*)

banana bract mosaic virus (*Banana bract mosaic virus*)

banana skipper (*Erionota thrax*)

banana stem weevil (*Odoiporus longicollis*)

black knot (*Apiosporina morbosa*)

blackline (*Cherry leaf roll virus*)

black rot of grape (*Phyllostica ampelicida*)

blood disease bacterium of banana

branched broomrape (*Orobanche ramosa*)

breadfruit fruit fly (*Bactrocera umbrosa*)

brown rot of stonefruit (*Monilinia fructigena*)

bumblebee (*Bombus* spp.)

camellia petal blight (*Ciborinia camelliae*)

chestnut blight (*Cryphonectria parasitica*)

Chinese fruit fly (*Bactrocera minax*)

citrus black fly (*Aleurocanthus woglumi*)

citrus canker (*Xanthomonas citri* pv. *citri*)

citrus fruit borer (*Citripestis sagitiferella*)

citrus greening, Huanglongbing (*Candidatus Liberibacter asiaticus*)

coconut cadang-cadang viroid (*Coconut cadang-cadang viroid*)

coffee leaf rust (*Hemileia vastatrix*)

Colorado potato beetle (*Leptinotarsa decemlineata*)

Cook Islands fruit fly (*Bactrocera melanotus*)

cotton boll weevil (*Anthonomus grandis*)

cotton leaf curl disease (*Cotton leaf curl virus*)

cut worm (*Agrotis interjectionis*)

Authorised by the Parliamentary Counsel

downy mildew of sugarcane (*Peronosclerospora sacchari*)

drywood longicorn beetle (*Stromatium barbatum*)

Dutch elm disease (*Ceratocystis ulmi*)

eucalyptus canker (*Chrysoporthe cubensis*)

eucalyptus/guava rust (exotic strains of *Puccinia psidii*)

Eumusae leaf spot (*Pseudocercospora eumusae*)

European house borer (*Hylotrupes bajulus*)

European stone fruit yellows (Apricot chlorotic leaf roll phytoplasma)

European stone fruit yellows phytoplasma (European stone fruit yellows phytoplasma)

false codling moth (*Cryptophlebia leucotreta*)

Fijian fruit fly (*Bactrocera passiflorae*)

fire blight (*Erwinia amylovora*)

freckle disease of banana (*Phyllosticta* and *Guignardia* species pathogenic on banana other than *P. maculata*)

fruit fly (*Bactrocera atrisetosa*, *B. decipiens*, *B. kirki*, *B. occipitalis*, *B. tau*, *B. trilineola*, *B. trivialis* and *B. xanthodes*)

giant African snail (*Achatina fulica*)

giant pine scale (*Marchalina hellenica*)

glassy winged sharpshooter (*Homalodisca coagulata*)

golden apple snail (*Pomacea canaliculata*)

golden potato cyst nematode (*Globodera rostochiensis*)

grape leaf-folder (*Desmia funeralis*)

grape phylloxera (*Daktulosphaira vitifolii*)

grape root rot (*Roesleria subterranea*)

grapevine leaf rust (*Phakopsora euvitis*)

green snail (*Cantareus apertus*)

guava fruit fly (*Bactrocera correcta*)

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Gypsy moth complex (*Lymantria dispar*)

hazelnut blight (*Anisogramma anomala*)

hessian fly (*Mayetiola destructor*)

Indian cotton leafhopper (*Amrasca biquttula biquttula*)

Indian fruit fly (*Bactrocera caryeae*)

Japanese citrus fruit fly (*Bactrocera tsuneonis*)

karnal bunt of wheat (*Tilletia indica*)

khapra beetle (*Trogoderma granarium*)

leaf scorch of sugarcane (*Stagonospora sacchari*)

lime gall wasp (*Bruchophagus muli*)

Longhorn beetle (*Monochamus* spp.)

mal secco (*Plenodermus tracheiphilus*)

Mango malformation disease (MMD)

mango pulp weevil (*Sternochetus frigidus*)

Mediterranean fruit fly (*Ceratitis capitata*)

melon fly (*Bactrocera cucurbitae*)

moko and bugtok (moko and bugtok strains of *Ralstonia solanacearum*)

navel orangeworm (*Amyelois transitella*)

Oriental fruit fly (*Bactrocera dorsalis* syn. *B. papayae*, *B. invadens* and *B. philippinensis*)

peach fruit fly (*Bactrocera zonata*)

peach X phytoplasma (including peach eastern X phytoplasma)

peanut stripe virus (*Peanut stripe virus*)

pear fruit moth (*Numonia pirivorella*)

Philippine downy mildew (*Peronosclerospora philippinensis*)

Pierce's disease (*Xylella fastidiosa*)

pinewood nematode species complex (*Bursaphelenchus* spp.)

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pink stalk borer (*Sesamia grisescens*)

pitch canker (*Fusarium circinatum*)

plum weevil (*Conotrachelus nenuphar*)

powder post beetle (*Lyctus africanus*)

pyriform scale (*Protopulvinaria pyriformis*)

red stele (*Phytophthora fragariae* var. *fragariae*)

rice water weevil (*Lissorhoptrus oryzophilus*)

rough strawberry weevil (*Otiorhynchus rugosostriatus*)

Russian wheat aphid (*Diuraphis noxia*)

sharka (*Plum pox virus*)

solanum fruit fly (*Bactrocera latifrons*)

sorghum mosaic virus (*Sorghum mosaic virus*)

Sri Lankan fruit fly (*Bactrocera kandiensis*)

strawberry bud weevil (*Anthonomus bisignifer*)

strawberry tortrix (*Acleris comariana*)

subterranean termites, exotic (*Coptotermes* spp.)

sudden oak death (*Phytophthora ramorum*)

sugarcane leafhopper (*Pyrilla perpusilla*)

sugarcane Ramu stunt virus (*Sugarcane Ramu stunt virus*)

sugarcane streak mosaic virus (*Sugarcane streak mosaic virus*)

sugarcane white leaf phytoplasma

sugarcane whitefly (*Aleurolobus barodensis*)

sugarcane woolly aphid (*Ceratovacuna lanigera*)

Sumatra disease bacterium (*Pseudomonas syzygii*)

summer fruit tortrix (*Adoxophyes orana*)

Texas root rot (*Phymatotrichum omnivorum*)

tomato/potato psyllid (*Bactericera cockerelli*)

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Tongan fruit fly (*Bactrocera facialis*)

variegated cutworm (*Peridroma saucia*)

verticillium wilt (*Verticillium dahliae*)—defoliating strain

western gall rust (*Endocronartium harknessii*)

western plant bug (*Lygus hesperus*)

wheat spindle streak mosaic virus (*Wheat spindle streak mosaic virus*)

white potato cyst nematode (*Globodera pallida*)

zebra chip (*Candidatus Liberibacter psyllaurous*)

Part 8 Tramp ants

Argentine ant (*Linepithema humile*)

tropical fire ant or ginger ant (*Solenopsis geminata*)

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Schedule 2 Restricted matter and categories

sections 21 and 38

Note—

Biosecurity matter may also be declared to be, or not to be, restricted matter under a restricted matter regulation under chapter 2.

Part 1 Restricted matter—other than invasive biosecurity matter

Restricted matter	Category numbers
Aquatic diseases, parasites and viruses	
Aeromonas salmonicida—atypical strains	1
Batrachochytrium dendropbatidis (amphibian)	1
Bonamia species	1
epizootic ulcerative syndrome (*Aphanomyces invadans*)	1
gill-associated virus	1
infectious hypodermal and haematopoietic necrosis virus	1
Marteilia sydneyi	1
Perkinsus olseni	1
ranavirus (amphibian)	1
viral encephalopathy and retinopathy	1
white tail disease	1

Restricted matter	Category numbers
Restricted matter affecting animals	
American foulbrood (*Paenibacillus larvae*)	1
anthrax (*Bacillus anthracis*)	1
Australian bat lyssavirus	1
avian influenza, low pathogenic	1
avian paramyxovirus serotype 1 in pigeons	1
avian tuberculosis (*Mycobacterium avium*)	1
bluetongue virus	1
brucellosis (*Brucella suis*)	1
cysticercus bovis (*Taenia saginata*)	1
enzootic bovine leucosis	1
equine herpes virus 1—abortogenic and neurological strains	1
equine infectious anaemia	1
equine viral arteritis	1
H1N1 swine influenza	1
Hendra virus	1
infectious laryngotracheitis virus	1
Japanese encephalitis	1
Johne's disease	1
leishmaniosis (*Leishmania* spp.) of any species	1
Newcastle disease (avirulent)	1
salmonella enteritidis infection in poultry (*Salmonella enteritidis*)	1

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Restricted matter	Category numbers
Noxious fish	
alligator gar (*Atractosteus spatula*)	2,3,4
black pacu (*Piaractus brachypomus*)	2,3,4
carp (*Cyprinus carpio*)	3,5,6,7
Chinese weatherfish, weatherloach (*Misgurnus anguillicaudatus*)	3,5,6,7
climbing perch (*Anabas testudineus*)	3,5,6,7
gambusia (*Gambusia holbrooki*)	3,5,6,7
giant cichlid, yellow belly cichlid (*Boulengerochromis microlepis*)	2,3,4
marbled lungfish (*Protopterus aethiopicus*)	2,3,4
spotted gar (*Lepisosteus oculatus*)	2,3,4
tilapia (*Oreochromis mossambicus* and *Tilapia mariae*)	3,5,6,7
Restricted matter affecting plants	
Asian honey bee (*Apis cerana javana*)	1
banana bunchy top virus (*Babuvirus*)	1
black Sigatoka of banana (*Mycosphaerella fijiensis*)	1
cucumber green mottle mosaic virus (*Cucumber green mottle mosaic virus*)	1
Fiji leaf gall virus	1
fusarium wilt of banana (*Fusarium oxysporum* f. sp. *cubense* tropical race 4)	1
island sugarcane planthopper (*Eumetopina flavipes*)	1
jack beardsley mealybug (*Pseudococcus jackbeardsleyi* (Gimpel and Miller))	1

Restricted matter	Category numbers
melon necrotic spot virus (*Melon necrotic spot virus*)	1
potato spindle tuber viroid	1
sugarcane stem borer (*Chilo* spp.)	1
West Indian drywood termite (*Cryptotermes brevis*)	1
Tramp ants	
electric ant or little fire ant (*Wasmannia auropunctata*)	1
red imported fire ant (*Solenopsis invicta*)	1

Part 2 Restricted matter—invasive biosecurity matter

Restricted matter	Category numbers
Invasive plants	
African boxthorn (*Lycium ferocissimum*)	3
African fountain grass (*Cenchrus setaceum*)	3
African tulip tree (*Spathodea campanulata*)	3
alligator weed (*Alternanthera philoxeroides*)	3
annual ragweed (*Ambrosia artemisiifolia*)	3
asparagus fern (*Asparagus aethiopicus, A. africanus* and *A. plumosus*)	3
asparagus fern (*Asparagus scandens*)	3
athel pine (*Tamarix aphylla*)	3

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Restricted matter	Category numbers
badhara bush (*Gmelina elliptica*)	3
balloon vine (*Cardiospermum grandiflorum*)	3
belly-ache bush (*Jatropha gossypiifolia* and hybrids)	3
bitou bush (*Chrysanthemoides monilifera* ssp. *rotundifolia*)	2,3,4,5
blackberry (*Rubus anglocandicans*, *Rubus fruticosus* aggregate)	3
boneseed (*Chrysanthemoides monilifera* ssp. *monilifera*)	2,3,4,5
bridal creeper (*Asparagus asparagoides*)	2,3,4,5
bridal veil (*Asparagus declinatus*)	3
broad-leaved pepper tree (*Schinus terebinthifolius*)	3
cabomba (*Cabomba caroliniana*)	3
camphor laurel (*Cinnamomum camphora*)	3
candyleaf (*Stevia ovata*)	3
cane cactus (*Austrocylindropuntia cylindrica*)	3
cat's claw creeper (*Dolichandra unguis-cati*)	3
Chilean needle grass (*Nassella neesiana*)	3
chinee apple (*Ziziphus mauritiana*)	3
Chinese celtis (*Celtis sinensis*)	3
cholla cacti with the following names—	
• coral cactus (*Cylindropuntia fulgida*)	3
• devil's rope pear (*C. imbricata*)	3
• Hudson pear (*Cylindropuntia rosea* and *C. tunicata*)	2,3,4,5
• jumping cholla (*C. prolifera*)	2,3,4,5
• snake cactus (*C. spinosior*)	3

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Restricted matter	Category numbers
Dutchman's pipe (*Aristolochia* spp. other than native species)	3
elephant ear vine (*Argyreia nervosa*)	3
Eve's pin cactus (*Austrocylindropuntia subulata*)	3
fireweed (*Senecio madagascariensis*)	3
flax-leaf broom (*Genista linifolia*)	3
gamba grass (*Andropogon gayanus*)	3
giant sensitive plant (*Mimosa diplotricha* var. *diplotricha*)	3
gorse (*Ulex europaeus*)	3
groundsel bush (*Baccharis halimifolia*)	3
harrisia cactus (*Harrisia martinii*, *H. tortuosa* and *H. pomanensis* syn. *Cereus pomanensis*)	3
harungana (*Harungana madagascariensis*)	3
honey locust (*Gleditsia triacanthos* including cultivars and varieties)	3
hygrophila (*Hygrophila costata*)	3
hymenachne or olive hymenachne (*Hymenachne amplexicaulis* and hybrids)	3
Koster's curse (*Clidemia hirta*)	2,3,4,5
kudzu (*Pueraria montana* var. *lobata* syn. *P. lobata*, *P. triloba* other than in the Torres Strait Islands)	3
lantanas—	
• creeping lantana (*Lantana montevidensis*)	3
• lantana, common lantana (*Lantana camara*)	3
limnocharis, yellow burrhead (*Limnocharis flava*)	2,3,4,5
Madeira vine (*Anredera cordifolia*)	3

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Restricted matter	Category numbers
Madras thorn (*Pithecellobium dulce*)	2,3,4,5
mesquites—	
• honey mesquite (*Prosopis glandulosa*)	3
• mesquite or algarroba (*Prosopis pallida*)	3
• Quilpie mesquite (*Prosopis velutina*)	3
Mexican bean tree (*Cecropia pachystachya*, *C. palmata* and *C. peltata*)	2,3,4,5
Mexican feather grass (*Nassella tenuissima*)	2,3,4,5
miconia with the following names—	
• *Miconia calvescens*	2,3,4,5
• *M. cionotricha*	2,3,4,5
• *M. nervosa*	2,3,4,5
• *M. racemosa*	2,3,4,5
mikania vine (*Mikania micrantha*)	2,3,4,5
mimosa pigra (*Mimosa pigra*)	2,3,4,5
Montpellier broom (*Genista monspessulana*)	3
mother of millions (*Bryophyllum delagoense* syn. *B. tubiflorum*, *Kalanchoe delagoensis*)	3
mother of millions hybrid (*Bryophyllum* x *houghtonii*)	3
ornamental gingers—	
• Kahili ginger (*Hedychium gardnerianum*)	3
• white ginger (*H. coronarium*)	3
• yellow ginger (*H. flavescens*)	3
parkinsonia (*Parkinsonia aculeata*)	3

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Restricted matter	Category numbers
parthenium (*Parthenium hysterophorus*)	3
pond apple (*Annona glabra*)	3
prickly acacia (*Vachellia nilotica*)	3
prickly pears—	
• bunny ears (*Opuntia microdasys*)	2,3,4,5
• common pest pear, spiny pest pear (*O. stricta* syn. *O. inermis*)	3
• drooping tree pear (*O. monacantha* syn. *O. vulgaris*)	3
• prickly pear (*O. elata*)	2,3,4,5
• tiger pear (*O. aurantiaca*)	3
• velvety tree pear (*O. tomentosa*)	3
• Westwood pear (*O. streptacantha*)	3
privets—	
• broad-leaf privet, tree privet (*Ligustrum lucidum*)	3
• small-leaf privet, Chinese privet (*L. sinense*)	3
rat's tail grasses—	
• American rat's tail grass (*Sporobolus jacquemontii*)	3
• giant Parramatta grass (*S. fertilis*)	3
• giant rat's tail grass (*S. pyramidalis* and *S. natalensis*)	3
rubber vines—	
• ornamental rubber vine (*Cryptostegia madagascariensis*)	3
• rubber vine (*C. grandiflora*)	3
sagittaria (*Sagittaria platyphylla*)	3
salvinia (*Salvinia molesta*)	3

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Restricted matter	Category numbers
Scotch broom (*Cytisus scoparius*)	3
Senegal tea (*Gymnocoronis spilanthoides*)	3
Siam weed with the following names—	
• *Chromolaena odorata*	3
• *C. squalida*	3
sicklepods—	
• foetid cassia (*Senna tora*)	3
• hairy cassia (*S. hirsuta*)	3
• sicklepod (*S. obtusifolia*)	3
silver-leaf nightshade (*Solanum elaeagnifolium*)	3
Singapore daisy (*Sphagneticola trilobata* syn. *Wedelia trilobata*)	3
telegraph weed (*Heterotheca grandiflora*)	3
thunbergia (*Thunbergia grandiflora* syn. *T. laurifolia*)	3
tobacco weed (*Elephantopus mollis*)	3
water hyacinth (*Eichhornia crassipes*)	3
water lettuce (*Pistia stratiotes*)	3
water mimosa (*Neptunia oleracea* and *N. Plena*)	2,3,4,5
willows (all *Salix* spp. other than *S. babylonica*, *S.* x *calodendron* and *S.* x *reichardtii*)	3
yellow bells (*Tecoma stans*)	3
yellow oleander, Captain Cook tree (*Cascabela thevetia* syn. *Thevetia peruviana*)	3
Invasive animals	

Restricted matter	Category numbers
barbary sheep (*Ammotragus lervia*)	2,3,4,5,6
blackbuck antelope (*Antilope cervicapra*)	2,3,4,5,6
cat (*Felis catus* and *Prionailurus bengalensis* x *Felis catus*), other than a domestic cat	3,4,6
dingo (*Canis lupus dingo*)	3,4,5,6
dog (*Canis lupus familiaris*), other than a domestic dog	3,4,6
European fox (*Vulpes vulpes*)	3,4,5,6
European rabbit (*Oryctolagus cuniculus*)	3,4,5,6
feral chital (axis) deer (*Axis axis*)	3,4,6
feral fallow deer (*Dama dama*)	3,4,6
feral goat (*Capra hircus*)	3,4,6
feral pig (*Sus scrofa*)	3,4,6
feral red deer (*Cervus elaphus*)	3,4,6
hog deer (*Axis porcinus*)	2,3,4,5,6
red-eared slider turtle (*Trachemys scripta elegans*)	2,3,4,5,6
feral rusa deer (*Rusa timorensis*, syn. *Cervus timorensis*)	3,4,6
sambar deer (*Rusa unicolor*, syn. *Cervus unicolor*)	2,3,4,5,6
Tramp ants	
yellow crazy ant (*Anoplolepis gracilipes*)	3

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Schedule 3 Savings and transitional provisions

section 514

Part 1 Examples of matters dealt with under repealed Acts and amended Act

Division 1 Examples for chapter 2

1 Examples for ch 2 of documents under s 507

For the operation of chapter 2, the following are examples of a document mentioned in section 507(1)(a) for matters dealt with under a repealed Act or the amended Act—

(a) a regulation declaring a pest to be a serious pest under the *Plant Protection Act 1989*, previous section 6P(1);

(b) a gazette notice under the *Plant Protection Act 1989*, previous section 6P(2).

2 Example for ch 2 of actions under s 507

For the operation of chapter 2, declaring a pest to be a serious pest under the *Plant Protection Act 1989*, previous section 6P is an example of an action mentioned in section 507(1)(b) for matters dealt with under a repealed Act or the amended Act.

3 Example for ch 2 of obligations under s 507

For the operation of chapter 2, an obligation under the *Exotic Diseases in Animals Act 1981*, previous section 8 to report the presence of a disease mentioned in schedule 1 is an example of an obligation mentioned in section 507(1)(c) for matters dealt with under a repealed Act or the amended Act.

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4 Example for ch 2 of protections under s 507

For the operation of chapter 2, the statement that a person does not commit an offence of feeding a declared pest animal in particular circumstances under the *Stock Route Management Act 2002*, previous section 40(2) is an example of a protection mentioned in section 507(1)(d) for matters dealt with under a repealed Act or the amended Act.

Division 2 Examples for chapter 3

5 Examples for ch 3 of documents under s 507

For the operation of chapter 3, the following are examples of a document mentioned in section 507(1)(a) for matters dealt with under a repealed Act or the amended Act—

(a) a pest management plan under the *Stock Route Management Act 2002*, previous section 25;

(b) a notice under the *Stock Route Management Act 2002*, previous section 184 directing a local government to take action.

6 Examples for ch 3 of actions under s 507

For the operation of chapter 3, the following are examples of an action mentioned in section 507(1)(b) for matters dealt with under a repealed Act or the amended Act—

(a) a direction under the *Stock Route Management Act 2002*, previous section 184 by the Minister to a local government for the local government to perform a function or obligation under the repealed Act or the amended Act;

(b) the performance of a function by the chief executive under the *Stock Route Management Act 2002*, previous section 185.

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7 Examples for ch 3 of obligations under s 507

For the operation of chapter 3, the following are examples of an obligation mentioned in section 507(1)(c) for matters dealt with under a repealed Act or the amended Act—

(a) a requirement under the *Stock Route Management Act 2002*, previous section 25 for a local government to have a plan for managing particular pests in its local government area;

(b) a requirement under the *Stock Route Management Act 2002*, previous section 35 to make a pest management plan under that Act available for inspection;

(c) a requirement under the *Stock Route Management Act 2002*, previous section 187 for a local government to make annual payments.

Division 3 Examples for chapter 5

8 Example for ch 5 of documents under s 507

For the operation of chapter 5, a guideline under the *Stock Route Management Act 2002*, previous section 15 is an example of a document mentioned in section 507(1)(a) for matters dealt with under a repealed Act or the amended Act.

9 Example for ch 5 of obligations under s 507

For the operation of chapter 5, a requirement under the *Stock Route Management Act 2002*, previous section 16 to make a guideline available for inspection is an example of an obligation mentioned in section 507(1)(c) for matters dealt with under a repealed Act or the amended Act.

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Division 4 Examples for chapter 6

10 Examples for ch 6 of documents under s 507

For the operation of chapter 6, the following are examples of a document mentioned in section 507(1)(a) for matters dealt with under a repealed Act or the amended Act—

(a) a notice under the *Plant Protection Act 1989*, previous section 8 prohibiting the introduction of a particular pest into the State;

(b) a notice that an area is in quarantine under the *Plant Protection Act 1989*, previous section 11;

(c) a notice under the *Exotic Diseases in Animals Act 1981*, previous section 10A restricting movement in an area.

11 Examples for ch 6 of actions under s 507

For the operation of chapter 6, the following are examples of an action mentioned in section 507(1)(b) for matters dealt with under a repealed Act or the amended Act—

(a) the notification of an area under the *Exotic Diseases in Animals Act 1981*, previous section 18 to be a control area for an exotic disease within the meaning of that Act;

(b) the giving of a direction under the *Plant Protection Act 1989*, previous section 13;

(c) the giving or producing of a document under the *Plant Protection Act 1989*, previous section 11E.

12 Examples for ch 6 of obligations under s 507

For the operation of chapter 6, the following are examples of an obligation mentioned in section 507(1)(c) for matters dealt with under a repealed Act or the amended Act—

(a) an obligation under the *Plant Protection Act 1989*, previous section 11 to comply with a notice prohibiting or restricting movement of a particular thing;

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(b) an obligation under the *Exotic Diseases in Animals Act 1981*, previous section 12 to carry out stated activities in a particular area.

13 Examples for ch 6 of protections under s 507

For the operation of chapter 6, the following are examples of a protection mentioned in section 507(1)(d) for matters dealt with under a repealed Act or the amended Act—

(a) a protection under the *Plant Protection Act 1989*, previous section 13 of a reasonable excuse for noncompliance with a direction;

(b) a protection under the *Plant Protection Act 1989*, previous section 11F that evidence derived from a document given by the individual is not admissible in evidence against the individual in any civil or criminal proceeding.

Division 5 Examples for chapter 7

14 Example for ch 7 of documents under s 507

For the operation of chapter 7, a register under the *Stock Act 1915*, previous schedule 1, section 15 is an example of a document mentioned in section 507(1)(a) for matters dealt with under a repealed Act or the amended Act.

15 Examples for ch 7 of actions under s 507

For the operation of chapter 7, the following are examples of an action mentioned in section 507(1)(b) for matters dealt with under a repealed Act or the amended Act—

(a) applying under the *Apiaries Act 1982*, previous section 7 for registration as a beekeeper;

(b) cancelling a registration as a beekeeper under the *Apiaries Act 1982*, previous section 10.

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16 Example for ch 7 of obligations under s 507

For the operation of chapter 7, an obligation under the *Stock Act 1915*, previous schedule 1, section 15 for particular entities or places to be registered is an example of an obligation mentioned in section 507(1)(c) for matters dealt with under a repealed Act or the amended Act.

17 Example for ch 7 of protections under s 507

For the operation of chapter 7, the statement under the *Apiaries Act 1982*, previous section 8 that the chief executive may permit an applicant for renewal of registration as a beekeeper to act as if the applicant has obtained registration if the application for renewal has not been decided is an example of a protection mentioned in section 507(1)(d) for matters dealt with under a repealed Act or the amended Act.

Division 6 Examples for chapter 8

18 Example for ch 8 of documents under s 507

For the operation of chapter 8, a permit under the *Stock Route Management Act 2002*, previous section 61 is an example of a document mentioned in section 507(1)(a) for matters dealt with under a repealed Act or the amended Act.

19 Examples for ch 8 of actions under s 507

For the operation of chapter 8, the following are examples of an action mentioned in section 507(1)(b) for matters dealt with under a repealed Act or the amended Act—

(a) applying for a permit, or the renewal of a permit, under the *Stock Route Management Act 2002*, previous section 58;

(b) imposing conditions on a permit under the *Stock Route Management Act 2002*, previous section 62;

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(c) requiring the applicant for a permit to give the chief executive further information or documents under the *Stock Route Management Act 2002*, previous section 59.

20 Examples for ch 8 of obligations under s 507

For the operation of chapter 8, the following are examples of an obligation mentioned in section 507(1)(c) for matters dealt with under a repealed Act or the amended Act—

(a) an obligation under the *Stock Route Management Act 2002*, previous section 62 to keep records about a pest to which a permit relates if keeping the record is a condition of the permit;

(b) an obligation under the *Stock Route Management Act 2002*, previous section 72 in particular circumstances to dispose of a pest to which a permit relates.

21 Example for ch 8 of protections under s 507

For the operation of chapter 8, a protection under the *Stock Route Management Act 2002*, previous section 72, of a reasonable excuse for noncompliance with a notice requiring disposal of a declared pest under that Act is an example of a protection mentioned in section 507(1)(d) for matters dealt with under a repealed Act or the amended Act.

Division 7 Examples for chapter 9

22 Examples for ch 9 of documents under s 507

For the operation of chapter 9, the following are examples of a document mentioned in section 507(1)(a) for matters dealt with under a repealed Act or the amended Act—

(a) an authorisation under the *Plant Protection Act 1989*, previous section 20B of a program for surveillance of a thing mentioned in the authorisation;

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(b) a program under the *Stock Act 1915*, previous section 30 to eradicate particular matter.

23 Example for ch 9 of actions under s 507

For the operation of chapter 9, an inspector exercising powers to monitor movement of plants in an area the subject of a program for surveillance under the *Plant Protection Act 1989*, previous section 20E is an example of an action mentioned in section 507(1)(b) for matters dealt with under a repealed Act or the amended Act.

24 Examples for ch 9 of obligations under s 507

For the operation of chapter 9, the following are examples of an obligation mentioned in section 507(1)(c) for matters dealt with under a repealed Act or the amended Act—

(a) an obligation under the *Plant Protection Act 1989*, previous section 20B that the chief executive ensure each inspector who is proposed to act under a program for surveillance of a thing is informed of particular things relating to the program;

(b) an obligation under the *Stock Act 1915*, previous section 30 not to interfere with a step taken by an inspector under a program.

Division 8 Examples for chapter 10

25 Examples for ch 10 of documents under s 507

For the operation of chapter 10, the following are examples of a document mentioned in section 507(1)(a) for matters dealt with under a repealed Act or the amended Act—

(a) an identity card issued to an inspector or authorised person under the *Exotic Diseases in Animals Act 1981*, previous section 19C;

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(b) an acknowledgement given under the *Stock Route Management Act 2002*, previous section 252 of consent for an inspector or authorised person to enter a place;

(c) a warrant issued under the *Plant Protection Act 1989*, previous section 20;

(d) a notice under the *Stock Route Management Act 2002*, previous section 270 requiring a person to take a thing to be seized to a stated place;

(e) a notice under the *Apiaries Act 1982*, previous section 27(9) requiring a person to give a document;

(f) a receipt for a seized thing under the *Stock Route Management Act 2002*, previous section 271;

(g) an information notice under the *Stock Route Management Act 2002*, previous section 63.

26 Examples for ch 10 of actions under s 507

For the operation of chapter 10, the following are examples of an action mentioned in section 507(1)(b) for matters dealt with under a repealed Act or the amended Act—

(a) the appointment of an inspector under the *Stock Act 1915*, previous section 4D;

(b) the giving of a direction under the *Stock Act 1915*, previous section 33.

27 Examples for ch 10 of obligations under s 507

For the operation of chapter 10, the following are examples of an obligation mentioned in section 507(1)(c) for matters dealt with under a repealed Act or the amended Act—

(a) an obligation under the *Stock Act 1915*, previous section 4J for a person to return the person's identity card to the chief executive if the office of the person as an inspector ends;

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(b) an obligation under the *Apiaries Act 1982*, previous section 27 requiring a person to give information or produce a document;

(c) an obligation under the *Stock Route Management Act 2002*, previous section 285 for an authorised person to give notice of the particulars of damage to anything;

(d) a requirement under the *Stock Route Management Act 2002*, previous section 270 to take a thing to be seized to a stated place;

(e) an obligation under the *Agricultural Standards Act 1994*, previous section 29 to return a seized thing to the person from whom it is seized or its owner;

(f) an obligation under the *Stock Route Management Act 2002*, previous section 273 to allow an owner of a seized thing to inspect the thing;

(g) a requirement under the *Stock Route Management Act 2002*, previous section 16 to make a particular document available for inspection.

28 Examples for ch 10 of protections under s 507

For the operation of chapter 10, the following are examples of a protection mentioned in section 507(1)(d) for matters dealt with under a repealed Act or the amended Act—

(a) a right for a person to claim compensation under the *Agricultural Standards Act 1994*, previous section 41;

(b) the statement in the *Plant Protection Act 1989*, previous section 20AA that evidence that may tend to incriminate an individual, derived from information the individual is compelled to give, is not admissible in proceedings as mentioned in that provision;

(c) a protection under the *Plant Protection Act 1989*, previous section 19 of a reasonable excuse for noncompliance with a requirement;

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(d) a statement under the *Apiaries Act 1982*, previous section 32 that an inspector is not liable for damage caused in particular circumstances.

Division 9 Examples for chapter 11

29 Example for ch 11 of documents under s 507

For the operation of chapter 11, an application for compensation under the *Diseases in Timber Act 1975*, previous section 11 is an example of a document mentioned in section 507(1)(a) for matters dealt with under a repealed Act or the amended Act.

30 Example for ch 11 of actions under s 507

For the operation of chapter 11, the payment of compensation in particular circumstances under the *Exotic Diseases in Animals Act 1981*, previous section 29 is an example of an action mentioned in section 507(1)(b) for matters dealt with under a repealed Act or the amended Act.

31 Example for ch 11 of obligations under s 507

For the operation of chapter 11, an obligation under the *Stock Act 1915*, previous section 31 for a person applying for compensation to apply in the way prescribed is an example of an obligation mentioned in section 507(1)(c) for matters dealt with under a repealed Act or the amended Act.

32 Example for ch 11 of protections under s 507

For the operation of chapter 11, the statement that a person is entitled to compensation for loss or damage in particular circumstances under the *Plant Protection Act 1989*, previous section 14 is an example of a protection mentioned in section 507(1)(d) for matters dealt with under a repealed Act or the amended Act.

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Division 10 Examples for chapter 12

33 Examples for ch 12 of documents under s 507

For the operation of chapter 12, the following are examples of a document mentioned in section 507(1)(a) for matters dealt with under a repealed Act or the amended Act—

(a) a certificate under the *Agricultural Standards Act 1994*, previous section 61 purporting to be signed by the chief executive stating a particular matter;

(b) an order under the *Stock Route Management Act 2002*, previous section 295 requiring a person convicted of an offence to pay the State or local government the costs of taking particular action.

34 Examples for ch 12 of actions under s 507

For the operation of chapter 12, the following are examples of an action mentioned in section 507(1)(b) for matters dealt with under a repealed Act or the amended Act—

(a) applying for internal review of a decision under the *Agricultural Standards Act 1994*, previous section 48;

(b) the giving by QCAT of a stay of a decision under the *Agricultural Standards Act 1994*, previous section 50, if an application is made for an internal review of the decision.

35 Examples for ch 12 of protections under s 507

For the operation of chapter 12, the following are examples of a protection mentioned in section 507(1)(d) for matters dealt with under a repealed Act or the amended Act—

(a) the right to apply for an internal review of a decision made under the *Plant Protection Act 1989*, previous section 21M;

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(b) the right to apply for a stay of a decision the subject of an application for internal review under the *Agricultural Standards Act 1994*, previous section 50.

Division 11 Examples for chapter 13

36 Example for ch 13 of documents under s 507

For the operation of chapter 13, a direction or an order under the *Stock Act 1915*, previous section 15 to destroy a particular thing is an example of a document mentioned in section 507(1)(a) for matters dealt with under a repealed Act or the amended Act.

37 Examples for ch 13 of actions under s 507

For the operation of chapter 13, the giving of an order under the *Exotic Diseases in Animals Act 1981*, previous section 12 is an example of an action mentioned in section 507(1)(b) for matters dealt with under a repealed Act or the amended Act.

38 Examples for ch 13 of obligations under s 507

For the operation of chapter 13, the following are examples of an obligation mentioned in section 507(1)(c) for matters dealt with under a repealed Act or the amended Act—

(a) an obligation under the *Stock Act 1915*, previous section 15 to destroy a particular thing;

(b) a requirement under the *Exotic Diseases in Animals Act 1981*, previous section 19 to comply with an order.

39 Example for ch 13 of protections under s 507

For the operation of chapter 13, a statement under the *Plant Protection Act 1989*, previous section 14 that a person is not required to comply with a direction or order if the person has a reasonable excuse is an example of a protection mentioned in

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section 507(1)(d) for matters dealt with under a repealed Act or the amended Act.

Division 12 Examples for chapter 14

40 Example for ch 14 of documents under s 507

For the operation of chapter 14, an intergovernmental agreement under the *Plant Protection Act 1989*, previous section 21L is an example of a document mentioned in section 507(1)(a) for matters dealt with under a repealed Act or the amended Act.

41 Example for ch 14 of actions under s 507

For the operation of chapter 14, entering into an agreement under the *Plant Protection Act 1989*, previous section 21L is an example of an action mentioned in section 507(1)(b) for matters dealt with under a repealed Act or the amended Act.

Division 13 Examples for chapter 15

42 Examples for ch 15 of documents under s 507

For the operation of chapter 15, the following are examples of a document mentioned in section 507(1)(a) for matters dealt with under a repealed Act or the amended Act—

(a) a certificate under the *Plant Protection Act 1989*, previous section 21 that makes a statement about the existence of a fact;

(b) an application for the grant of an accreditation under the *Plant Protection Act 1989*, previous section 21A;

(c) a register of persons accredited under the *Plant Protection Act 1989*, previous section 21D.

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43 Examples for ch 15 of actions under s 507

For the operation of chapter 15, the following are examples of an action mentioned in section 507(1)(b) for matters dealt with under a repealed Act or the amended Act—

(a) giving a certificate under the *Plant Protection Act 1989*, previous section 21 by a person who is accredited to give the certificate;

(b) granting an accreditation under the *Plant Protection Act 1989*, previous section 21A;

(c) imposing conditions on an accreditation under the *Plant Protection Act 1989*, previous section 21C.

44 Examples for ch 15 of obligations under s 507

For the operation of chapter 15, the following are examples of an obligation mentioned in section 507(1)(c) for matters dealt with under a repealed Act or the amended Act—

(a) an obligation under the *Plant Protection Act 1989*, previous section 19A to pay a fee for the provision of a certificate;

(b) an obligation under the *Plant Protection Act 1989*, previous section 21B to give an applicant for an accreditation a notice of a decision to refuse to grant the accreditation.

Division 14 Examples for chapter 17

45 Example for ch 17 of documents under s 507

For the operation of chapter 17, a notice given under the *Plant Protection Act 1989*, previous section 21G is, if the chief executive proposes to cancel, suspend or amend an accreditation, an example of a document mentioned in section 507(1)(a) for matters dealt with under a repealed Act or the amended Act.

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46 Example for ch 17 of actions under s 507

For the operation of chapter 17, cancelling, suspending or amending an accreditation under the *Plant Protection Act 1989*, previous section 21G is an example of an action mentioned in section 507(1)(b) for matters dealt with under a repealed Act or the amended Act.

47 Examples for ch 17 of obligations under s 507

For the operation of chapter 17, the following are examples of an obligation mentioned in section 507(1)(c) for matters dealt with under a repealed Act or the amended Act—

(a) an obligation under the *Plant Protection Act 1989*, previous section 21G to give notice of cancelling, suspending or amending an accreditation;

(b) an obligation under the *Plant Protection Act 1989*, previous section 21H to return a cancelled, suspended or amended accreditation in particular circumstances.

48 Example for ch 17 of protections under s 507

For the operation of chapter 17, a protection under the *Plant Protection Act 1989*, previous section 21H of a reasonable excuse for noncompliance with a notice to return a cancelled, suspended or amended accreditation is an example of a protection mentioned in section 507(1)(d) for matters dealt with under a repealed Act or the amended Act.

Division 15 Examples for chapter 18

49 Example for ch 18 of documents under s 507

For the operation of chapter 18, a document containing confidential information about a person that must not be disclosed under the *Stock Route Management Act 2002*, previous section 224B other than for particular purposes is an example of a document mentioned in section 507(1)(a) for matters dealt with under a repealed Act or the amended Act.

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50 Example for ch 18 of actions under s 507

For the operation of chapter 18, a limitation under the *Plant Protection Act 1989*, previous section 11B on the review of particular decisions and actions is an example of an action mentioned in section 507(1)(b) for matters dealt with under a repealed Act or the amended Act.

51 Examples for ch 18 of obligations under s 507

For the operation of chapter 18, an obligation under the *Stock Route Management Act 2002*, previous section 224B not to disclose confidential information gained by a person in administering or performing a function under the repealed Act or the amended Act is an example of an obligation mentioned in section 507(1)(c) for matters dealt with under a repealed Act or the amended Act.

52 Example for ch 18 of protections under s 507

For the operation of chapter 18, a statement under the *Stock Route Management Act 2002*, previous section 307 that a particular person does not incur civil liability for an act done, or omission made, honestly and without negligence under the repealed Act or the amended Act is an example of a protection mentioned in section 507(1)(d) for matters dealt with under a repealed Act or the amended Act.

Part 2 Transitional provisions for repealed Acts and amended Act—general matters

53 Pt 2 prevails over ch 19, pt 2, div 1, sdiv 2 of the Act and pt 1

If a provision of this part is inconsistent with chapter 19, part 2, division 1, subdivision 2 of the Act or part 1, the provision prevails to the extent of the inconsistency.

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54 Existing inspectors

(1) This section applies to a person who—

(a) before the commencement, was appointed under a repealed Act as an inspector; and

(b) still held the appointment immediately before the commencement.

Note—

The relevant repealed Acts are the *Agricultural Standards Act 1994*, the *Apiaries Act 1982*, the *Exotic Diseases in Animals Act 1981*, the *Plant Protection Act 1989* and the *Stock Act 1915*.

(2) On the commencement, the person is taken to hold office under this Act as an inspector for this Act on the conditions stated in the person's instrument of appointment under the repealed Act.

55 Existing inspectors under Chemical Usage (Agricultural and Veterinary) Control Act 1988

(1) This section applies to a person who—

(a) before the commencement, was appointed under the *Chemical Usage (Agricultural and Veterinary) Control Act 1988* as an inspector; and

(b) still held the appointment immediately before the commencement.

(2) On the commencement—

(a) the person's appointment as an inspector under the *Chemical Usage (Agricultural and Veterinary) Control Act 1988* continues; and

(b) the person is taken to hold office under this Act as an inspector for this Act on the conditions stated in the person's instrument of appointment under the *Chemical Usage (Agricultural and Veterinary) Control Act 1988*.

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56 Existing authorised persons under Plant Protection Act 1989

(1) This section applies to a person who—

(a) before the commencement, was appointed under the *Plant Protection Act 1989* as an authorised person; and

(b) still held the appointment immediately before the commencement.

(2) On the commencement, the person is taken to hold office under this Act as an authorised person for this Act on the conditions stated in the person's instrument of appointment under the *Plant Protection Act 1989*.

57 Existing authorised persons under Stock Route Management Act 2002

(1) This section applies to a person who—

(a) before the commencement, was appointed under a previous provision of the amended Act as an authorised person; and

(b) still held the appointment immediately before the commencement.

(2) On the commencement—

(a) the person's appointment as an authorised person under the amended Act continues; and

(b) the person is taken to hold office under this Act as an authorised person for this Act on the conditions stated in the person's instrument of appointment under the amended Act.

58 Existing forest officers

(1) This section applies to a person who—

(a) before the commencement, was appointed under the *Forestry Act 1959* as a forest officer; and

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(b) still held the appointment immediately before the commencement.

Note—

A forest officer under the repealed *Diseases in Timber Act 1975* is a forest officer appointed under the *Forestry Act 1959*.

(2) On the commencement—

(a) the person's appointment as a forest officer under the *Forestry Act 1959* continues; and

(b) the person is taken to hold office under this Act as an authorised person for this Act on the conditions stated in the person's instrument of appointment under the *Forestry Act 1959*.

59 Existing applications

An application made under a previous provision of a repealed Act or the amended Act and not decided on the commencement—

(a) if there is a corresponding provision for the previous provision—must be decided under the corresponding provision; or

(b) otherwise—must be taken to have lapsed and any fee paid by the applicant for the application must be refunded in full to the applicant.

60 Existing permits

A permit granted under a repealed Act or the amended Act and in force immediately before the commencement, continues in force from the commencement for the period stated in the permit, unless it is sooner cancelled, as if this Act had not been enacted.

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61 Existing exemptions

If, immediately before the commencement, a person was exempted from a previous provision of a repealed Act or the amended Act, on the commencement—

(a) if there is a corresponding provision for the previous provision—the person is taken to be exempted from the corresponding provision; or

(b) otherwise—the exemption continues to apply according to its terms as if this Act had not been enacted.

62 Declarations, directions, notices, orders and requests made by the Minister or chief executive

(1) This section applies to a declaration, direction, notice, order or request (a ***relevant notification***) made by the Minister or chief executive under a previous provision of a repealed Act or the amended Act before the commencement and in force or effect immediately before the commencement if there is no corresponding provision for the previous provision.

(2) The relevant notification—

(a) continues to apply after the commencement according to its terms; and

(b) may be varied, revoked or otherwise dealt with, and enforced, as if this Act had not been enacted.

(3) If the relevant notification imposed an obligation on an entity immediately before the commencement, the obligation continues to apply according to its terms as if this Act had not been enacted.

(4) If the relevant notification states a period for doing something—

(a) the stated period continues to apply for doing the thing; and

(b) the period continues to have started from when the period started under the previous provision of the repealed Act or the amended Act.

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(5) If the relevant notification stated a day before which, or by which, a thing is to be done (however expressed), the thing must be done by the stated day.

63 Existing directions, notices and orders given by inspectors, authorised persons or forest officers

(1) This section applies to a direction, notice or order given before the commencement to a person by an inspector or authorised person under a previous provision of a repealed Act or the amended Act, or by a forest officer under the *Forestry Act 1959*, whether or not the person had received the direction, notice or order before the commencement, if there is no corresponding provision for the previous provision.

(2) If the direction, notice or order imposed an obligation on the person immediately before the commencement, the obligation continues to apply according to its terms as if this Act had not been enacted.

(3) If the direction, notice or order stated a period for doing something—

(a) the stated period continues to apply for doing the thing; and

(b) the period continues to have started from when the period started under the previous provision of the repealed Act or the amended Act.

(4) If the direction, notice or order stated a day before which, or by which, a thing is to be done (however expressed), the thing must be done by the stated day.

64 Existing approvals and other authorities

(1) This section applies to an approval or other authority given before the commencement to a person under a previous provision of a repealed Act or the amended Act, whether or not the person had received the approval or other authority before the commencement, if there is no corresponding provision for the previous provision.

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(2) If the approval or other authority granted a right to the person immediately before the commencement, the approval or other authority continues to apply according to its terms as if this Act had not been enacted.

(3) If conditions were imposed on the approval or other authority before the commencement, the conditions continue to apply to the approval or other authority.

(4) If the approval or other authority stated a period for doing something—

(a) the stated period continues to apply for doing the thing; and

(b) the period continues to have started from when the period started under the previous provision of the repealed Act or the amended Act.

(5) If the approval or other authority stated a day before which, or by which, a thing is to be done (however expressed), the thing must be done by the stated day.

65 Continuing obligation to give a person notice of existence of a fact

(1) This section applies if—

(a) a person is required under a previous provision of a repealed Act or the amended Act to give a person notice of the existence of a fact; and

(b) there is no corresponding provision for the previous provision; and

(c) immediately before the commencement, the person had not given the notice.

(2) The obligation to give the notice continues to apply according to its terms as if this Act had not been enacted.

Example in the context of subsection (1)(b)—

Under the *Apiaries Act 1982*, previous section 23, a beekeeper is required to notify an inspector of the presence of a disease as defined under that Act within 48 hours after becoming aware of or suspecting the existence of the disease. If the disease is not prohibited matter or category 1 or category 2 restricted matter under this Act, and the

Apiaries Act 1982 is repealed before the 48 hours ends, the obligation to report the presence of the disease continues to apply to the beekeeper despite the repeal of the *Apiaries Act 1982* and even though the beekeeper is not required to report the presence of the disease under this Act.

66 Proceedings for recovery of costs and charges

If, immediately before the commencement, an entity has a right under a previous provision of a repealed Act or the amended Act to recover from another entity costs or charges payable by the other entity, the right continues as if this Act had not been enacted.

67 Proceedings for payment of compensation

If, immediately before the commencement, an entity has a right under a previous provision of a repealed Act or the amended Act to claim compensation from another entity for loss or expenses incurred by the entity, the right continues as if this Act had not been enacted.

68 Existing guidelines

A guideline prepared or issued under a repealed Act or the amended Act in relation to a previous provision of the repealed Act or the amended Act is, from the commencement, taken to be a guideline made by the chief executive under this Act for the corresponding provision for the previous provision.

69 Record-keeping requirements

(1) This section applies if—

(a) a previous provision of a repealed Act or the amended Act requires a document to be kept; and

(b) there is no corresponding provision for the previous provision.

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(2) The document must be kept under the previous provision as if this Act had not been enacted.

(3) If a previous provision of the repealed Act or the amended Act states a way of keeping the document, the document must be kept in the way stated.

(4) If a previous provision of the repealed Act or the amended Act states a period for keeping the document—

(a) the stated period continues to apply for doing the thing; and

(b) the period continues to have started from when the period started under the previous provision of the repealed Act or the amended Act.

70 Warrants

A warrant issued under a repealed Act, or under the amended Act in relation to a previous provision of the amended Act, and in force immediately before the commencement is taken to be a warrant validly issued under this Act and continues in force, subject to any condition or limitation on its issue and with necessary changes.

71 Offences

(1) Proceedings for an offence against a previous provision of a repealed Act or the amended Act may be continued or started despite the repeal of the repealed Act or of a previous provision of the amended Act, and the provisions of the repealed Act or the amended Act necessary or convenient to be used in relation to the proceedings continue to apply as if this Act had not been enacted.

(2) For subsection (1), the *Acts Interpretation Act 1954*, section 20 applies, but does not limit the subsection.

72 Protection of officials from liability continues

(1) The protection under a previous provision of a repealed Act or the amended Act that an official does not incur civil liability

for an act done, or omission made, honestly and without negligence under the repealed Act or the amended Act continues under this Act if the protection applied to the official immediately before the commencement.

(2) If subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to—

(a) if the official was the chief executive officer of a local government, an authorised person appointed by the chief executive officer of a local government or a person acting under the direction of an authorised person appointed by the chief executive officer of a local government—the local government; or

(b) if the official was an employee of a pest operational board—the building authority for the barrier fence part that is in the same area as the declared pest fence the pest operational board built or maintained; or

(c) otherwise—the State.

(3) For this section, it does not matter what is the form of appointment or employment of a person who is a public service officer or public service employee.

(4) In this section—

civil liability includes liability for the payment of costs ordered to be paid in a proceeding for an offence against a repealed Act or the amended Act.

official means—

(a) the Minister; or

(b) the chief executive; or

(c) a chief executive officer; or

(d) an authorised officer; or

(e) a person acting under the direction of an authorised officer; or

(f) a director of a pest operational board; or

(g) an employee of a pest operational board; or

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(h) a person acting under the direction of an employee of a pest operational board; or

(i) a public service officer or public service employee, including a public service officer or public service employee acting under the repealed Act or a previous provision of the amended Act in substantially the same or equivalent role as an auditor or accredited certifier under this Act.

pest operational board means a pest operational board under the amended Act, section 213.

73 Reviews and appeals

(1) A review or appeal under a previous provision of a repealed Act or the amended Act relating to a matter under the previous provision that has started but not been finalised before the commencement may continue as if this Act had not been enacted.

(2) A right of appeal under a previous provision of a repealed Act or the amended Act relating to a decision on a review mentioned in subsection (1) continues as if this Act had not been enacted.

(3) If, immediately before the commencement, a person has a right of review or appeal under a previous provision of a repealed Act or the amended Act relating to a matter under the previous provision, the right continues as if this Act had not been enacted.

74 References in Acts and documents

A reference in an Act or document to a previous provision of a repealed Act or the amended Act may, if the context permits, be taken as a reference to the corresponding provision for the previous provision.

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Part 3 Transitional provisions about particular matters for repealed provisions of Acts

Division 1 Preliminary

75 Pt 3 prevails over ch 19, pt 2, div 1, sdiv 2 of the Act and pts 1 and 2

Part 3 applies despite anything to the contrary in chapter 19, part 2, division 1, subdivision 2 of the Act or part 1 or 2.

76 Definitions for pt 3

In this part—

amended Act means—

(a) for division 4—the *Chemical Usage (Agricultural and Veterinary) Control Act 1988*; or

(b) for division 7—the *Fisheries Act 1994*; or

(c) for division 10—the *Stock Route Management Act 2002*.

repealed Act means—

(a) for division 2—the repealed *Agricultural Standards Act 1994*; or

(b) for division 3—the repealed *Apiaries Act 1982*; or

(c) for division 5—the repealed *Diseases in Timber Act 1975*; or

(d) for division 6—the repealed *Exotic Diseases in Animals Act 1981*; or

(e) for division 8—the repealed *Plant Protection Act 1989*; or

(f) for division 9—the repealed *Stock Act 1915*.

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Division 2 Transitional provisions for Agricultural Standards Act 1994

77 Standards about agriculture

A standard about agriculture made by the chief executive under the repealed Act, section 5, and in force immediately before the commencement is, from the commencement, taken to be of no effect.

78 Persons appointed as analysts

(1) This section applies if—

(a) a person was appointed before the commencement by the chief executive under the repealed Act, section 15, as an analyst; and

(b) the person still held the appointment immediately before the commencement.

(2) On the commencement, the person's appointment as an analyst under the repealed Act ends.

79 Destruction of agricultural requirement

(1) This section applies if—

(a) an inspector enters a place under the repealed Act, section 36, and requires the occupier of the place to make the agricultural requirement, within the meaning of the repealed Act, harmless; and

(b) immediately before the commencement, the person had not complied with the inspector's requirement.

(2) On the commencement, the inspector's requirement is taken to be a biosecurity order given by an inspector under section 373 in the same terms as the requirement given under the amended Act.

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Division 3 Transitional provisions for Apiaries Act 1982

80 Delayed application of ch 7, pt 2 to registered beekeepers

(1) A person who is a registered beekeeper under the repealed Act immediately before the commencement continues from the commencement to be a registered beekeeper until 31 March first occurring after the commencement unless the person's registration is sooner cancelled under the repealed Act, section 10, or otherwise ends.

(2) From the commencement, the repealed Act, section 7(7) continues to apply to the certificate issued to the person under that section while the registration remains in force.

(3) The requirement to be registered under chapter 7, part 2 does not apply to a person in relation to the keeping of bees while the person's registration as a registered beekeeper for the keeping of approximately the same number of bees continues under subsection (1).

81 Permit granted under repealed Act, s 8

A permit granted under the repealed Act, section 8, and in force immediately before the commencement, continues in force from the commencement for the period stated in the permit, unless it is sooner cancelled, as if this Act had not been enacted.

82 Applications for permits, and existing permits, to bring bees or hives into Queensland

(1) Subsection (2) applies to an application made under the repealed Act, section 9 for a permit to bring bees or hives into Queensland and not decided immediately before the commencement.

(2) From the commencement, the repealed Act, section 9, continues to apply to the application as if this Act had not been enacted.

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(3) A permit granted under the repealed Act, section 9, and in force immediately before the commencement, continues in force from the commencement for the period stated in the permit as if this Act had not been enacted.

(4) From the commencement, the repealed Act, section 9 continues to apply to the permit while it remains in force.

83 Classification of apiaries certificates

A certificate issued under the repealed Act, section 11, and in force immediately before the commencement, is of no effect from the commencement.

84 Encroachment of apiary class A upon another apiary

(1) This section applies if the chief executive prohibits under the repealed Act, section 12(1) or 13(1) the establishment of an apiary class A in or upon premises or a place and the prohibition is in force immediately before the commencement.

(2) From the commencement, the prohibition is of no effect.

85 Permit to establish apiary—repealed Act, s 13(2)

(1) A permit issued under the repealed Act, section 13(2), and in force immediately before the commencement, continues in force from the commencement for the period stated in the permit as if this Act had not been enacted.

(2) From the commencement, the repealed Act, section 13 continues to apply to the permit while it remains in force.

86 Continuing obligation to give chief executive notice of sale of apiary or part of apiary

(1) This section applies if—

(a) a person is required under the repealed Act, section 16 to give the chief executive notice of the sale of an apiary or part of an apiary owned by the person; and

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(b) immediately before the commencement, the person had not given the notice.

(2) From the commencement, the obligation to give the notice within 14 days after selling the apiary, or part of the apiary, continues as if this Act had not been enacted.

87 Marking or branding of hives

(1) This section applies to a registered mark or number issued under the repealed Act to a person who maintained an apiary immediately before the commencement.

(2) From the commencement, the mark or number is taken to be the HIN allocated to the person under section 158 for the person's hives.

88 Lodging returns and furnishing lists under the repealed Act, s 27

(1) Subsection (2) applies if—

(a) before the commencement, a person is required under the repealed Act, section 27(6) to lodge a return; and

(b) immediately before the commencement, the person has not lodged the return.

(2) The repealed Act, section 27(6) and (8) continues to apply to the person from the commencement as if this Act had not been enacted, and the period for lodging the return—

(a) continues to apply for lodging the return; and

(b) continues to have started from when the period started under previous section 27(6).

(3) Subsection (4) applies if—

(a) before the commencement, a person is required under the repealed Act, section 27(7) to furnish a list; and

(b) immediately before the commencement, the person has not furnished the list.

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(4) The repealed Act, section 27(8) continues to apply to the person from the commencement as if this Act had not been enacted, and the period stated in the request to furnish the list—

(a) continues to apply for furnishing the list; and

(b) continues to have started from when the period started under the repealed Act, section 27(7).

Division 4 Transitional provisions for Chemical Usage (Agricultural and Veterinary) Control Act 1988

89 Notice to recall particular prescribed substances

(1) This section applies if—

(a) before the commencement, the chief executive gives a person a notice under the amended Act, section 14(1), to take the steps and do the acts stated in the notice to recall a prescribed substance under that section; and

(b) the prescribed substance has in or on it the residue of a chemical that is a contaminant; and

(c) immediately before the commencement, the person has not complied with the notice.

(2) The requirement to take the steps and do the acts stated in the notice continue to apply from the commencement as if this Act had not been enacted.

(3) The amended Act, section 14(3) continues to apply to the person.

90 Notifying contaminants

(1) This section applies if—

(a) before the commencement, a person has an obligation under the amended Act, section 15 to notify the standards officer under that Act of a particular fact

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stated in that section relating to agricultural produce or manufactured stock food; and

(b) the obligation relates to the residue of a chemical that is a contaminant in or on the agricultural produce or manufactured stock food; and

(c) immediately before the commencement, the person had not complied with the obligation.

(2) From the commencement—

(a) the obligation to notify the standards officer of the fact is taken to be an obligation under section 47 to notify an inspector of the fact; and

(b) the stated period continues to apply for notifying the inspector; and

(c) the period continues to have started from when the period started under the amended Act, section 15.

91 Dealing with prescribed substances relating to contaminants

(1) This section applies if—

(a) before the commencement, the standards officer or an inspector gives a person a notice under the amended Act, section 16(1) or (2) not to take particular action other than as permitted by the notice; and

(b) the notice relates to a residue of a chemical that is a contaminant; and

(c) immediately before the commencement, the person had not complied with the notice.

(2) From the commencement—

(a) the notice is taken to be a biosecurity order given by an inspector under section 373 in the same terms as the notice given under the amended Act; and

(b) the stated period continues to apply for taking the action; and

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(c) the period continues to have started from when the period started under the amended Act, section 16.

92 Approvals relating to contaminants

(1) This section applies if—

(a) before the commencement, the standards officer gives a person an approval under the amended Act, section 17; and

(b) the approval relates to a residue of a chemical that is a contaminant; and

(c) immediately before the commencement, the approval was still in force.

(2) From the commencement—

(a) the approval continues to apply according to its terms as if this Act had not been enacted; and

(b) if conditions were imposed on the approval before the commencement, the conditions continue to apply to the approval; and

(c) the amended Act, section 17(5) continues to apply to the person as if this Act had not been enacted.

93 Destruction of things relating to contaminants

(1) This section applies if—

(a) before the commencement, the chief executive gives a person a notice under the amended Act, section 18 directing the person to cause the things to be destroyed or otherwise disposed of; and

(b) the notice relates to a residue of a chemical that is a contaminant; and

(c) immediately before the commencement, the person had not complied with the notice.

(2) From the commencement—

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(a) the notice is taken to be a biosecurity order given by an inspector under section 373 in the same terms as the notice given under the amended Act; and

(b) the stated period continues to apply for taking the action; and

(c) the period continues to have started from when the period started under the amended Act, section 18.

(3) If, before the commencement, the standards officer took action under the amended Act, section 19 any amount owed by a person to the standards officer under that section becomes on the commencement a debt payable by the person to the chief executive.

Division 5 Transitional provisions for Diseases in Timber Act 1975

94 Notice given to occupier or owner after declaration of infected area

(1) This section applies if—

(a) before the commencement—

(i) an infected area is declared under the repealed Act, section 4(1)(b); and

(ii) the chief executive had given the occupier or owner of a place in the infected area a notice under the repealed Act, section 8; and

(b) immediately before the commencement, the measures stated in the notice for the extermination or the prevention or control of the dissemination of the disease the subject of the declaration have not been taken.

(2) The chief executive may, from the commencement, take the measures stated in the notice as if this Act had not been enacted.

(3) If the notice states that the chief executive requires the place to be vacated and the place is a dwelling house, the repealed

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Act, section 9 applies to the chief executive as if this Act had not been enacted.

Division 6 Transitional provisions for Exotic Diseases in Animals Act 1981

95 Infected premises

(1) This section applies if—

(a) under the repealed Act, section 9 an inspector has placed an area in quarantine; and

(b) immediately before the commencement, the area is still in quarantine.

(2) On the commencement—

(a) the repealed Act, section 9(2) continues to apply to the area in quarantine as if this Act had not been enacted; and

(b) the period for which the area is in quarantine under the repealed Act, section 9(1B), or as extended under the repealed Act, section 9(2), whether before or after commencement, continues to apply to the area; and

(c) the period continues to have started from when the period started under the repealed Act, section 9; and

(d) a reference to an inspector in the repealed Act, section 9(3) is taken to be a reference to an inspector under this Act.

96 Notifications of restricted areas

(1) This section applies if—

(a) under the repealed Act, section 10, the Minister has by notice notified an area to be a restricted area for an exotic disease stated in the notice; and

(b) immediately before the commencement, the notice is still in force.

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(2) On the commencement—

(a) the notice is taken to be a regulation made under section 128 that includes biosecurity zone regulatory provisions; and

(b) the restricted area is taken to be a biosecurity zone under the biosecurity zone regulatory provisions; and

(c) the exotic disease under the repealed Act is taken to be regulated biosecurity matter for the biosecurity zone regulatory provisions; and

(d) a notice under the repealed Act, section 10A declaring movement of particular things within, into or out of the restricted area to be restricted is taken to be the biosecurity zone regulatory provisions or part of the provisions.

97 Existing licences for restricted movements

(1) This section applies if—

(a) under the repealed Act, section 11 a person holds a licence that allows a restricted movement for a restricted area; and

(b) immediately before the commencement, the licence is still in force.

(2) On the commencement, the licence—

(a) continues in effect for the period stated in the licence as if this Act had not been enacted unless it is sooner revoked under the repealed Act, section 11(3); and

(b) is subject to the conditions imposed on the licence when the licence was issued.

(3) From the commencement, the repealed Act, section 11(3) and (4) continues to apply as if this Act had not been enacted.

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Division 7 Transitional provisions for Fisheries Act 1994

98 Declared disease relating to contaminant

(1) This section applies if—

(a) under the amended Act, section 94 or 97, a declaration or regulation—

(i) prescribes a concentration level for a chemical residue that is a contaminant; and

(ii) declares that a chemical residue over the prescribed concentration level for the residue is a declared disease under that Act; and

(b) immediately before the commencement, the declaration or regulation is still in force.

(2) From the commencement—

(a) the declaration or regulation is taken to be a regulation made under section 503(2)(e); and

(b) the declared disease is taken to be a contaminant in an amount more than the maximum acceptable level in a carrier.

99 Declared disease relating to residue other than contaminant

(1) This section applies if—

(a) under the amended Act, section 94 or 97, a declaration or regulation—

(i) prescribes a concentration level for a chemical residue (other than a contaminant) or an antibiotic residue; and

(ii) declares that a residue over the prescribed concentration level for the residue is a declared disease under that Act; and

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(b) immediately before the commencement, the declaration or regulation is still in force.

(2) From the commencement, the declaration or regulation is taken to be a regulation made under the *Chemical Usage (Agricultural and Veterinary) Control Act 1988*, section 38(2)(b) prescribing the maximum residue limit for the chemical residue or antibiotic residue in—

(a) the tissue of a trade species animal within the meaning of that Act; or

(b) a product derived from a trade species animal.

100 Declared quarantine area relating to contaminant

(1) This section applies if—

(a) under the amended Act, section 95 or 97, the chief executive or a regulation declares an area to be a declared quarantine area in relation to a declared disease in the area; and

(b) the declared disease is a chemical residue that is a contaminant; and

(c) immediately before the commencement, the declaration or regulation is still in force.

(2) From the commencement—

(a) the declaration or regulation is taken to be a regulation made under this Act that includes biosecurity zone regulatory provisions; and

(b) the declared disease is taken to be regulated biosecurity matter for the biosecurity zone regulatory provisions; and

(c) the declared quarantine area is taken to be the area identified under the biosecurity zone regulatory provisions as the biosecurity zone; and

(d) any matters relating to the management, control and elimination of the declared disease for which the declaration or regulation provides are taken to be

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arrangements included in the biosecurity zone regulatory provisions for managing or eradicating the regulated biosecurity matter in relation to the biosecurity zone or areas outside the biosecurity zone.

101 Declared quarantine area relating to residue other than contaminant

(1) This section applies if—

(a) under the amended Act, section 95 or 97, the chief executive or a regulation declares an area to be a declared quarantine area in relation to a declared disease in the area; and

(b) the declared disease is a chemical residue (other than a contaminant) or an antibiotic residue over the prescribed concentration level for the residue; and

(c) immediately before the commencement, the declaration or regulation is still in force.

(2) From the commencement, the declaration or regulation is taken to be a regulation made under the *Chemical Usage (Agricultural and Veterinary) Control Act 1988*, section 38(2)(c) regulating the use, storage or possession of any of the following that contains the declared disease—

(a) the tissue of a trade species animal within the meaning of that Act;

(b) a product derived from a trade species animal.

102 Emergency disease or quarantine declaration relating to contaminant

(1) Subsection (2) applies if—

(a) the chief executive has under the amended Act, section 96 made an emergency disease declaration that states the declared disease the subject of the declaration; and

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(b) the declared disease is a chemical residue that is a contaminant over the prescribed concentration level for the residue; and

(c) immediately before the commencement, the declaration is still in force.

(2) On the commencement—

(a) the emergency disease declaration is taken to be a regulation made under section 503(2)(e); and

(b) the declared disease is taken to be a contaminant in an amount more than the maximum acceptable level in a carrier.

(3) Subsection (4) applies if—

(a) the chief executive has under the amended Act, section 96 made an emergency quarantine declaration; and

(b) the declared disease or other thing identified in the declaration as the reason for making the declaration is a chemical residue that is a contaminant over the prescribed concentration level for the residue; and

(c) immediately before the commencement, the emergency quarantine declaration is still in force.

(4) On the commencement—

(a) the emergency quarantine declaration—

(i) is taken to be a biosecurity emergency order made by the chief executive under section 113; and

(ii) continues to have effect for the period it would have had effect under the amended Act, section 96; and

(b) the area quarantined under the declaration is taken to be the biosecurity emergency area for the biosecurity emergency order; and

(c) the declared disease or other thing identified in the declaration is taken to be biosecurity matter associated

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with the biosecurity event that is the subject of the biosecurity emergency order.

103 Emergency disease or quarantine declaration relating to residue other than contaminant

(1) Subsection (2) applies if—

(a) the chief executive has under the amended Act, section 96 made an emergency disease declaration that states the declared disease the subject of the declaration; and

(b) the declared disease is a chemical residue (other than a contaminant) or an antibiotic residue over the prescribed concentration level for the residue; and

(c) immediately before the commencement, the declaration is still in force.

(2) On the commencement—

(a) the emergency disease declaration—

(i) continues in force as if this Act had not been enacted; and

(ii) continues to have effect for the period it would have had effect under the amended Act, section 96; and

(b) the following provisions of the amended Act continue to apply as if this Act had not been enacted—

(i) the amended Act, sections 98, 99, 101 and 103;

(ii) any other provision of the amended Act necessary for the provisions to have effect or be enforced.

(3) Subsection (4) applies if—

(a) the chief executive has under the amended Act, section 96, made an emergency quarantine declaration; and

(b) the declared disease or other thing identified in the declaration as the reason for making the declaration is a chemical residue (other than a contaminant) or an

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antibiotic residue over the prescribed concentration level for the residue; and

(c) immediately before the commencement, the emergency quarantine declaration is still in force.

(4) On the commencement—

(a) the emergency quarantine declaration—

(i) continues in force as if this Act had not been enacted; and

(ii) continues to have effect for the period it would have had effect under the amended Act, section 96; and

(b) the following provisions of the amended Act continue to apply as if this Act had not been enacted—

(i) the amended Act, sections 98, 99, 101 and 103;

(ii) any other provision of the amended Act necessary for the provisions to have effect or be enforced.

Division 8 Transitional provisions for Plant Protection Act 1989

104 Existing pest declarations

(1) Subsection (2) applies if—

(a) under the repealed Act, section 4(1), a regulation prescribes an undeclared pest to be a pest for the purposes of that Act; and

(b) immediately before the commencement, the regulation is still in force.

(2) On the commencement, the regulation is taken to be a prohibited matter regulation declaring the pest to be prohibited matter.

(3) Subsection (4) applies if—

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(a) under the repealed Act, section 4(2), the Minister has by notice declared an undeclared pest to be a pest for the purposes of that Act; and

(b) immediately before the commencement, the notice is still in force.

(4) On the commencement, the notice—

(a) is taken to be an emergency declaration, made by the chief executive under chapter 2, part 2, declaring the pest to be prohibited matter; and

(b) continues to have effect for the period it would have had effect under the repealed Act, section 4(3).

105 Declarations of pest quarantine areas

(1) Subsection (2) applies if—

(a) under the repealed Act, section 11(1), a regulation declares an area to be a pest quarantine area; and

(b) immediately before the commencement, the regulation is still in force.

(2) On the commencement—

(a) the regulation under the repealed Act is taken to be a regulation made under section 128 of the Act that includes biosecurity zone regulatory provisions; and

(b) the pest quarantine area is taken to be a biosecurity zone under the biosecurity zone regulatory provisions; and

(c) the pest that causes the pest infestation identified in the regulation under the repealed Act is taken to be regulated biosecurity matter for the biosecurity zone regulatory provisions.

(3) Subsection (4) applies if—

(a) under the repealed Act, section 11(1), the Minister has by notice declared an area to be a pest quarantine area; and

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(b) immediately before the commencement, the notice is still in force.

(4) On the commencement—

(a) the notice—

(i) is taken to be a biosecurity emergency order made by the chief executive under section 113 of the Act; and

(ii) continues to have effect for the period it would have had effect under the repealed Act, section 11(9); and

(b) the pest quarantine area is taken to be the biosecurity emergency area for the biosecurity emergency order; and

(c) the pest that causes the pest infestation identified in the notice under the repealed Act is taken to be biosecurity matter associated with the biosecurity event that is the subject of the biosecurity emergency order.

(5) Subsection (6) applies if, before the commencement, an inspector has given a direction or taken an action under the repealed Act, section 11(7), that allows a person to be exempted from the matters stated in paragraph (a) or (c) of that section.

(6) From the commencement—

(a) for an exemption relating to a regulation made under the repealed Act, section 11(7)—the exemption is taken to be a biosecurity instrument permit under this Act and is subject to the same conditions imposed under the repealed Act on the exemption; or

(b) for an exemption relating to a notice made under the repealed Act, section 11(7)—the exemption is taken to be an emergency biosecurity order permit under this Act and is subject to the same conditions imposed under the repealed Act on the exemption.

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106 Undertaking instead of declaration of pest quarantine area

(1) This section applies if—

(a) the Minister has, under the repealed Act, section 11(4), accepted an undertaking from the owner of land; and

(b) the undertaking is in force immediately before the commencement.

(2) From the commencement—

(a) the undertaking continues to apply to the owner as if this Act had not been enacted; and

(b) if, before the commencement, an inspector has given a direction or taken an action under the repealed Act, section 11(7), that allows a person to be exempted from the conditions imposed on the undertaking—the exemption continues to apply as if this Act had not been enacted; and

(c) the repealed Act, section 11(10), continues to apply in relation to the undertaking.

107 Approved plant declarations

(1) This section applies if—

(a) before the commencement, the chief executive made an approved plant declaration under the repealed Act, section 11A, that allowed planting or cultivating of an approved plant variety in a pest quarantine area within the meaning of that Act; and

(b) the declaration is still in force immediately before the commencement.

(2) On the commencement—

(a) if a regulation declared an area to be the pest quarantine area—the approved plant declaration is taken to be included in the biosecurity zone regulatory provisions under section 105(2)(a); or

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(b) if the Minister by notice under the repealed Act, section 11(1), declared the pest quarantine area—the approved plant declaration is taken to be a provision of the biosecurity emergency order under section 105(4)(a)(i).

108 Keeping of business documents

If, immediately before the commencement, a person is required under the repealed Act, section 11C or 11D, (a ***repealed section***) to keep a business document for an area—

(a) the obligation to keep the document under the repealed section continues to apply to the person; and

(b) the period stated in the repealed section for keeping the document—

(i) continues to apply for keeping the document; and

(ii) continues to have started from when the period started under the repealed section.

109 Existing pest surveillance programs

(1) This section applies to a pest surveillance program authorised under the repealed Act, section 20B, and in force immediately before the commencement.

(2) On the commencement, the program—

(a) is taken to be a surveillance program authorised by the chief executive under chapter 9; and

(b) continues to have effect for the period it would have had effect under the repealed Act.

110 Intergovernmental agreements and assurance certificates

(1) Subsection (2) applies to an intergovernmental agreement entered into under the repealed Act, section 21L (the ***existing agreement***), that is in force immediately before the commencement.

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(2) From the commencement—

(a) the existing agreement is taken to be an intergovernmental agreement entered into under section 390 (the ***continuing agreement***); and

(b) the continuing agreement applies to the parties to the existing agreement with any necessary changes to give effect to the existing agreement; and

(c) a reference in the existing agreement to an assurance certificate is taken to be a reference to an acceptable biosecurity certificate for the continuing agreement.

(3) Subsection (4) applies if an assurance certificate that is in effect immediately before the commencement makes a statement about the existence of a fact in relation to a plant, or other thing that may spread a pest, within the meaning of the repealed Act.

(4) From the commencement—

(a) the assurance certificate is taken to be an acceptable biosecurity certificate about the plant or other thing; and

(b) an authorised officer may accept and, without further checking, rely and act on the assurance certificate in relation to the fact as if it were an acceptable biosecurity certificate.

111 Governmental and industry cost sharing agreements

(1) This section applies to a government and industry cost sharing agreement (a ***GICS agreement***) entered into under the repealed Act, section 21LA, that is in force immediately before the commencement.

(2) From the commencement—

(a) the GICS agreement is taken to be a government and industry agreement entered into under section 391; and

(b) the government and industry agreement applies to the parties to the GICS agreement with any necessary changes to give effect to the GICS agreement.

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Division 9 Transitional provisions for Stock Act 1915

112 Stock Diseases Compensation and Stock Improvement Fund

(1) This section applies to the Stock Diseases Compensation and Stock Improvement Fund (the ***compensation fund***) established under the repealed Act, section 8.

(2) On the commencement—

(a) the amounts in the compensation fund become the assets of the State; and

(b) the liabilities mentioned in the repealed Act, section 8(3), become liabilities of the State.

113 Certificates of health for stock

(1) This section applies to a certificate of health for stock under the repealed Act that—

(a) states stock comply with the requirements under the repealed Act for introduction; and

(b) is in force immediately before the commencement.

(2) From the commencement—

(a) the certificate of health is taken to be an acceptable biosecurity certificate about the stock; and

(b) the acceptable biosecurity certificate has the same effect in relation to the statement as the certificate of health had under the repealed Act; and

(c) the acceptable biosecurity certificate has effect for the period the certificate of health would have had effect under the repealed Act.

114 Existing emergency disease notices

(1) This section applies if—

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(a) under the repealed Act, section 12A(1), the chief executive has made an emergency disease notice declaring a declared disease to be a disease for that Act; and

(b) immediately before the commencement, the notice is still in force.

(2) On the commencement, the notice—

(a) is taken to be an emergency prohibited matter declaration, made by the chief executive under chapter 2, part 2, declaring the declared disease to be prohibited matter; and

(b) continues to have effect for the period it would have had effect under the repealed Act, section 12A(6).

115 Notifications of infected and declared areas

(1) This section applies if, under the repealed Act, section 13(1)—

(a) the Minister has by notice notified an area to be an infected area or a declared area; and

(b) immediately before the commencement, the notice is still in force.

(2) On the commencement—

(a) the notice under the repealed Act is taken to be a regulation made under section 128 of the Act that includes biosecurity zone regulatory provisions; and

(b) the infected area or declared area is taken to be a biosecurity zone under the biosecurity zone regulatory provisions; and

(c) the disease stated in the notice is taken to be regulated biosecurity matter for the biosecurity zone regulatory provisions.

116 Quarantine and undertakings

(1) If—

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(a) an inspector has, under the repealed Act, section 14, given notice to the owner of holdings in an area that the area is in quarantine; and

(b) immediately before the commencement, the area is still in quarantine;

from the commencement, the repealed Act, section 14 continues to apply as if this Act had not been enacted.

(2) If—

(a) the chief executive has, under the repealed Act, section 14(2), accepted an undertaking from the owner of a holding; and

(b) the undertaking is in force immediately before the commencement;

from the commencement, the undertaking continues to apply to the owner as if this Act had not been enacted.

117 Registration of registrable places and PICs

(1) Subsection (2) applies if—

(a) there is a registrable place that is registered under the repealed Act; and

(b) the owner of the place—

(i) keeps the threshold number or more of designated animals; and

(ii) is not an owner of another registrable place; and

(c) the registration is in force immediately before the commencement.

(2) On the commencement—

(a) the owner of the place is taken to be a registered biosecurity entity registered under section 149 for 3 years from the commencement unless the owner is sooner deregistered under section 152; and

(b) the place is taken to be a designated place the subject of the registration under paragraph (b); and

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(c) the PIC allocated under the repealed Act to the place is taken to be the PIC allocated under section 151 to the designated place.

(3) Subsection (4) applies if—

(a) there is a registrable place (the ***first place***) that is registered under the repealed Act; and

(b) the owner of the first place is an owner of another registrable place (the ***second place***) that is registered under the repealed Act; and

(c) the owner of the first place keeps the threshold number or more of designated animals; and

(d) the registration is in force immediately before the commencement.

(4) On the commencement—

(a) the owner of the first place may be taken to be a registered biosecurity entity registered under section 149 for 3 years from the commencement unless the owner is sooner deregistered under section 152; and

(b) the first place and the second place may be taken to be designated places the subject of the registration under paragraph (a); and

(c) the PIC allocated under the repealed Act to each of the first place and second place may be taken to be the PIC allocated under section 151 to the designated places.

(5) Subsection (6) applies if—

(a) there is a registrable place that is registered under the repealed Act; and

(b) the owner of the place keeps fewer than the threshold number or more of designated animals; and

(c) the registration is in force immediately before the commencement.

(6) On the commencement—

(a) the registration of the place ends; and

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(b) the PIC allocated to the place is of no effect.

118 Existing approvals for particular places to remain unregistered

(1) This section applies if—

(a) the owner of a registrable place has been given an approval under the repealed Act for the place to remain unregistered; and

(b) the owner keeps fewer than the threshold number of designated animals; and

(c) the approval is in force immediately before the commencement.

(2) On the commencement, the approval is taken to be a registration exemption given under section 146 to the owner.

119 Approved tags

(1) An approved tag under the repealed Act that is in effect before the commencement is, on the commencement, taken to be an approved device under section 174.

(2) Subsection (3) applies if an approved tag is applied to an animal in a way that complies with the repealed Act immediately before the commencement.

(3) On the commencement, the animal is taken to be fitted with a suitable approved device for the animal.

120 Existing warranties implied on sale of stock

(1) This section applies if—

(a) before the commencement, there has been a sale or agreement for the sale of stock under the repealed Act, section 20; and

(b) whether before or after the commencement, there is conclusive evidence, within the meaning of the repealed

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Act, section 20, of a breach of the warranty implied under that section about the stock.

(2) From the commencement, the following continue to apply in relation to the warranty as if this Act had not been enacted—

(a) the rights of the purchaser of a head of stock under the repealed Act, section 20(3)(a);

(b) the obligations of the vendor of a head of stock under the repealed Act, section 20(3)(b);

(c) the repealed Act, section 20(2), (3A), (3B) and (6);

(d) a regulation made before the commencement for the purposes of the repealed Act, section 20(11).

121 Travel permits

(1) Subsection (2) applies if—

(a) an inspector has—

(i) under the repealed Act, section 21B, issued a travel permit; or

(ii) under the repealed Act, section 21E, issued a travel permit for multiple movement of stock; and

(b) the travel permit was in force immediately before the commencement.

(2) From the commencement—

(a) the travel permit, and any conditions imposed under the repealed Act, section 21B, on the travel permit, continue to apply as if this Act had not been enacted; and

(b) the repealed Act, sections 21D and 21F to 21K, and any other provision referred to in any of those provisions or necessary for those provisions to have effect, continue to apply to the travel permit as if this Act had not been enacted.

(3) Subsection (4) applies if an application for a travel permit made under the repealed Act, section 21C, has not been decided before the commencement.

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(4) From the commencement, the application—

(a) is taken to be an application for a biosecurity instrument permit made under section 132(2) of the Act; and

(b) must be decided under this Act.

122 Approvals for particular types of stock movement

(1) A stock movement approval, granted under the repealed Act and in force immediately before the commencement, from the commencement—

(a) continues in force as if this Act had not been enacted; and

(b) if conditions are imposed on the approval—remains in force only if the conditions are complied with.

(2) An application for a stock movement approval, made under the repealed Act and not decided before the commencement, must be decided under the repealed Act from the commencement as if this Act had not been enacted.

(3) In this section—

stock movement approval means an approval under the repealed Act for a type of stock movement that exempts stock from an inspection and treatment requirement or subjects stock to another less stringent form of inspection or treatment.

123 Miscellaneous approvals given by chief inspector

Any of the following approvals made under the repealed Act and in force immediately before the commencement continue in force from the commencement as if this Act had not been enacted—

(a) an approval for a person to inspect or treat, or supervise the inspection or treatment of, stock for cattle tick;

(b) the approval of a program for the eradication or control of cattle tick;

(c) the approval of a railway or road for the movement of stock.

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124 Disease eradication programs

(1) This section applies to a disease eradication program established under the repealed Act, section 30, and in force immediately before the commencement.

(2) On the commencement, the program—

(a) is taken to be a prevention and control program authorised by the chief executive under chapter 9; and

(b) continues to have effect for the period it would have had effect under the repealed Act.

125 Agreements in relation to disease eradication programs

If—

(a) the chief executive has entered into an agreement under the repealed Act, section 30(1A) with the owner of any holding or premises or the owner of any stock; and

(b) the agreement is in force immediately before the commencement;

from the commencement, the repealed Act, section 30 continues to apply to the agreement as if this Act has not been enacted.

Division 10 Transitional provisions for Stock Route Management Act 2002

126 Existing pest management plans and draft plans

(1) The pest management plan of a local government adopted under the amended Act, section 30 and in force immediately before the commencement is, from the commencement, taken to be the local government's biosecurity plan for invasive biosecurity matter for its area for the period stated in the plan.

(2) If, before the commencement, a local government was preparing its draft pest management plan under the amended

Act, section 27 but, immediately before the commencement, had not adopted the plan, the local government may either—

(a) complete the preparation and adoption of the plan in the way required under the amended Act, chapter 2, part 4; or

(b) end the preparation of the plan under the amended Act and make a biosecurity plan for invasive biosecurity matter for its area under section 53 of the Act.

(3) A pest management plan adopted by a local government in the way mentioned in subsection (2)(a) is taken to be the local government's biosecurity plan for invasive biosecurity matter for its area for the period stated in the plan.

127 Existing emergency pest notices

(1) This section applies if—

(a) under the amended Act, section 37(2), the chief executive has by notice made a declaration under that section for a particular animal or plant; and

(b) immediately before the commencement, the notice is still in force.

(2) On the commencement, the notice—

(a) is taken to be an emergency prohibited matter declaration, made by the chief executive under chapter 2, part 2, declaring the animal or plant to be prohibited matter; and

(b) continues to have effect for the period it would have had effect under the amended Act, section 37(7).

128 Existing agreement to make opening in declared pest fence

(1) This section applies to an agreement (the ***amended Act agreement***) a building authority entered into under the amended Act, section 52, with a person about making an opening in a declared pest fence for a particular purpose and

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period if the amended Act agreement is in force immediately before the commencement.

(2) On the commencement, the amended Act agreement is taken to be an agreement that the building authority for the relevant barrier fence part entered into with the person under section 95 of the Act in the same terms and for the same period as the amended Act agreement.

(3) In this section—

relevant barrier fence part means the barrier fence part in the area to which the amended Act agreement applies.

129 Notice directing restoration of declared pest fence

(1) This section applies to a notice given before the commencement by a building authority under the amended Act, section 53 to restore a declared pest fence to the condition it was in before the fence was damaged or opened.

(2) From the commencement—

(a) the notice is taken to be a notice given under section 96 of the Act by the building authority (the ***new building authority***) for the barrier fence part in the area to which the notice relates to restore the fence to the condition it was in before the fence was damaged or opened; and

(b) the stated day by which the fence must be restored continues to apply for the restoration; and

(c) the notice may be enforced by the new building authority.

130 Pest control notices

(1) This section applies to a pest control notice for an animal given under the amended Act, section 78, before the commencement by a pest operational board under the amended Act, section 213.

(2) From the commencement—

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(a) the notice continues in effect as if this Act had not been enacted; and

(b) the notice may be enforced by the invasive animal board or local government responsible for managing the animal as an invasive animal in the area to which the notice applies; and

(c) the following provisions continue to apply as if this Act had not been enacted—

(i) the amended Act, sections 79 and 80;

(ii) any other provision of the amended Act necessary for the provisions to have effect or to be enforced.

131 Register of pest control and entry notices

The register of pest control notices and entry notices kept under the amended Act, section 86 by the issuing entity for the notices is, from the commencement, taken to be included in the relevant register of biosecurity orders kept under section 379.

132 Emergency quarantine notices

(1) This section applies if—

(a) under the amended Act, section 90—

(i) the chief executive gives a landowner an emergency quarantine notice; or

(ii) the chief executive officer of a local government gives a landowner in the local government's area an emergency quarantine notice; and

(b) immediately before the commencement, the emergency quarantine notice is still in force.

(2) On the commencement—

(a) the emergency quarantine notice—

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(i) is taken to be a biosecurity emergency order made by the chief executive under section 113 of the Act; and

(ii) continues to have effect for the period it would have had effect under the amended Act, section 90; and

(b) the land to which the notice relates, stated in the notice, is taken to be the biosecurity emergency area for the biosecurity emergency order; and

(c) the class 1 or class 2 pest, within the meaning of the amended Act, that is identified in the notice is taken to be biosecurity matter associated with the biosecurity event the subject of the biosecurity emergency order.

(3) Subsection (4) applies if—

(a) the chief executive or the chief executive officer directs an authorised person under the amended Act, section 91, to take action that a person was required to take under the emergency quarantine notice; and

(b) immediately before the commencement, the authorised person has not taken the action.

(4) On the commencement—

(a) the authorised person may take the action required under that section; and

(b) the amended Act, sections 93 and 295 continue to apply as if this Act had not been enacted.

133 Continuation of Darling Downs–Moreton Rabbit Board

(1) This section applies to the Darling Downs–Moreton Rabbit Board (the ***former board***) established as a pest operational board under the amended Act, section 213, and in existence immediately before the commencement.

(2) On the commencement, the former board is taken to be an invasive animal board (the ***continued board***) established under section 62 of the Act, with the same name as the former board.

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(3) The assets and liabilities of the former board immediately before the commencement become the assets and liabilities of the continued board.

(4) An appointment of a person as a director of the former board and in force immediately before the commencement is taken to be an appointment under section 70 of the Act as a director of the continued board for the period stated in the director's instrument of appointment.

(5) For the purpose of calculating the duration of the appointment, it is taken to have been made when it was made under a previous provision of the amended Act.

(6) A director holding the office of chairperson of the former board immediately before the commencement continues to hold the office of chairperson of the continued board until the first meeting of the board of directors occurring at least 1 year after the director's selection as chairperson under a previous provision of the amended Act.

(7) On the commencement, a person employed by the former board continues to be employed by the continued board on the same conditions, and with the same entitlements of employment, that the person had immediately before the commencement.

134 Existing delegation by pest operational board

(1) This section applies to a person who, immediately before the commencement, was given a power by delegation under the amended Act, section 239 by a pest operational board under the amended Act, section 213.

(2) On the commencement, the person is taken to be a barrier fence employee appointed under section 100 of the Act until the earlier of the following, unless the person's appointment as a barrier fence employee sooner ends—

(a) the day the person is appointed under section 100;

(b) the day that is the end of a period of 1 year after the commencement.

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135 References to pest operational boards and declared pest fence

(1) A reference in an Act or document to a pest operational board under the amended Act, section 213 may, from the commencement and if the context permits, be taken as a reference to the entity that, under this Act—

(a) for a reference about the board managing an animal—manages the animal as an invasive animal; or

(b) for a reference about the board having responsibility for a declared pest fence—is the building authority for the barrier fence part that is in the same area as the declared pest fence.

(2) A reference to a declared pest fence for an animal in an Act or document may, from the commencement and if the context permits, be taken as a reference to a barrier fence part for the animal.

136 Existing pest survey programs

(1) This section applies to a pest survey program approved under the amended Act, section 241, and in force immediately before the commencement.

(2) From the commencement, a pest survey program continues as if it were—

(a) if the program authorised the prevention, management, reduction or eradication of a thing that is biosecurity matter—a prevention and control program; or

(b) otherwise—a surveillance program.

(3) The period for which the pest survey program has effect, stated in the program—

(a) continues to apply as if this Act had not been enacted; and

(b) continues to have started from when the period started under the amended Act.

(4) The pest survey program may be varied, revoked or otherwise dealt with and enforced as if it were a biosecurity program.

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Schedule 4 Dictionary

section 13

acceptable biosecurity certificate means a certificate that is an acceptable biosecurity certificate under section 413(2)(a), (b) or (c).

accepted representations, for a show cause notice—

(a) for chapter 14, part 3, division 3—see section 405(2); or

(b) for chapter 17, part 3—see section 485(2).

accreditation means accreditation under chapter 15.

accreditation conditions see section 430(1).

accredited certifier means a person who—

(a) holds accreditation under chapter 15 to give biosecurity certificates; or

(b) holds accreditation under an approved biosecurity accreditation scheme to give biosecurity certificates.

action includes stopping an action.

administering executive means—

(a) for a person appointed as a designated officer by the chief executive—the chief executive; or

(b) for a person appointed as an authorised person or a barrier fence employee by a chief executive officer—the chief executive officer; or

(c) for a person appointed as an authorised person or a barrier fence employee by 2 or more chief executive officers—the chief executive officers jointly; or

(d) for a person appointed as an authorised person or a barrier fence employee by an invasive animal board—the chairperson of the board.

administrator, for a relevant entity, see section 310(4).

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adopted provisions, of a code of practice, see section 106(1)(a).

aggravated offence see section 27(1).

agricultural activities include—

(a) cultivating soil; and

(b) broadcasting seed to establish an improved pasture; and

(c) planting, gathering or harvesting a crop, including a food or fibre crop; and

(d) growing non-indigenous grasses, legumes or forage cultivars; and

(e) horticulture or viticulture activities.

agricultural show means any show or exhibition event of limited duration, not including an event that is or is in the nature of a travelling circus or zoo, that includes the exhibition of designated animals, including, for example, in sporting events or show ring events.

Examples—

camp drafting school, horse racing, pony club, rodeo school

animal means any member of the animal kingdom (other than a human), whether alive or dead, and includes—

(a) a live pre-natal or pre-hatched creature; and

(b) the whole or any part of an embryo, or the eggs, ovum, semen or other genetic or reproductive material, of an animal; and

(c) the whole or any part of the progeny, larvae or pupae of an animal.

animal husbandry activities include—

(a) breeding, keeping, raising or caring for animals, for commercial purposes; and

(b) establishing and operating a dairy, feedlot, piggery or animal saleyard; and

(c) grazing animals; and

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(d) aquaculture; and

(e) beekeeping; and

(f) poultry farming of more than 500 birds; and

(g) testing and inoculation of animals, including using diagnostic agents, serums and vaccines.

applicant, for chapter 11, part 4, see 349(1).

approval, in relation to an auditor, means an approval issued under chapter 16.

approval conditions see section 435H (2) and (3).

approved biosecurity accreditation scheme, for chapter 15, see section 411.

approved device see section 174.

approved device requirement means section 179(2).

approved form means a form approved by the chief executive under section 502.

approved operator, for an approved biosecurity accreditation scheme, for chapter 15, see section 411.

AS 5008 means the Australian Standard for the hygienic rendering of animal products as in force from time to time under that designation (regardless of the edition or year of publication of the standard).

audit means an audit conducted under chapter 16.

auditor means a person approved as an auditor under chapter 16.

auditor's approval means an approval as an auditor obtained under chapter 16.

authorised officer means an authorised person or an inspector.

authorised person means a person who holds office as an authorised person under chapter 10, part 1.

authorised transport officer, for chapter 6, means a person, other than a police officer, who holds appointment as an

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authorised officer or accredited person under TORUM, chapter 3, part 2 and who also holds appointment under chapter 10, part 1, division 3 as an authorised person under this Act.

barrier fence see section 89(1).

barrier fence employee see section 100(3).

barrier fence map see section 91(1).

barrier fence part see section 89(2).

bee means—

(a) a honey bee (*Apis mellifera*); or

(b) another genus or species declared under a regulation to be a bee under this Act.

biosecurity accreditation scheme, for chapter 15, see section 435A.

biosecurity accreditation system, of an approved operator of, or an applicant for approval to operate, an approved biosecurity accreditation scheme, for chapter 15, see section 411.

biosecurity certificate see section 412.

biosecurity circumstance see section 142.

biosecurity consideration see section 5(a).

biosecurity emergency means a biosecurity emergency as provided for in a biosecurity emergency order.

biosecurity emergency area, for a biosecurity emergency order, see section 114(1)(b).

biosecurity emergency checkpoints see section 114(3)(a).

biosecurity emergency order see section 113(1).

biosecurity emergency order permit see section 121(2).

biosecurity emergency provisions means the provisions of chapter 6.

biosecurity event see section 14.

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biosecurity instrument, for chapter 6, part 4, see section 131.

biosecurity instrument permit see section 132(2).

biosecurity matter see section 15.

biosecurity order see section 373(1).

biosecurity plan means a biosecurity plan made by a local government under chapter 3, part 2.

biosecurity program see section 232.

biosecurity register see section 168.

biosecurity response see section 338.

biosecurity risk see section 16.

biosecurity risk matter see section 396(2)(b).

biosecurity risk notice see section 160(2).

biosecurity zone means an area identified as a biosecurity zone under biosecurity zone regulatory provisions.

biosecurity zone map see section 130A.

biosecurity zone regulatory provisions see section 128(1).

building authority, for a barrier fence part, see section 90.

captive bird means a bird in captivity, whether wild by nature or bred in captivity and whether native to Queensland, migratory or introduced.

carrier see section 17.

cat includes a Bengal cat (*Prionailurus bengalensis* x *Felis catus*).

change notice see section 170.

check audit, of the business of the other party to a compliance agreement, an accredited certifier's activities as an accredited certifier or an approved operator's operation of an approved biosecurity accreditation scheme, means an audit conducted by an appropriately qualified person—

(a) who is an employee of the department; or

(b) decided by the chief executive.

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chief executive officer means the chief executive officer of a local government.

chief health officer means the chief health officer under the *Hospital and Health Boards Act 2011*, section 52.

City of Brisbane Act means the *City of Brisbane Act 2010*.

code of practice means a code of practice made under a regulation under chapter 5, part 1.

compensation scheme see section 342(1).

compliance agreement see section 393(1).

compliance audit means an audit by an auditor to ensure—

(a) for an audit of the business of the other party to a compliance agreement—the carrying on of the business complies with the compliance agreement; or

(b) for an audit of an accredited certifier's activities as an accredited certifier—the carrying out of the activities complies with the accreditation; or

(c) for an audit of an approved operator's operation of an approved biosecurity accreditation scheme—the operations comply with—

(i) the approval conditions; and

(ii) the scheme.

compliance certificate see section 394.

contact details, of a person, means the person's telephone number or facsimile number.

contaminant see section 18.

controlled biosecurity matter, for a movement control order, see section 124(1).

convey, in relation to an animal, means carry or otherwise transport the animal in or on a vehicle.

corresponding law, to this Act or to a provision of this Act, means a law of the Commonwealth or another State that corresponds, or substantially corresponds, to this Act or to the provision.

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cost recovery order see section 382(2).

court—

(a) generally—means a Magistrates Court; and

(b) for sections 313, 314, 319, 358 and 360—includes the Supreme Court and the District Court.

damage includes injure.

deal with—

1 *Deal with*, biosecurity matter or a carrier, includes any of the following—

(a) keep or possess, whether intentionally or otherwise, the biosecurity matter or carrier;

(b) conduct experiments with the biosecurity matter or carrier;

(c) produce or manufacture the biosecurity matter or carrier;

(d) breed the biosecurity matter or carrier;

(e) propagate the biosecurity matter or carrier;

(f) use the biosecurity matter or carrier in the course of manufacturing a thing that is not the biosecurity matter or carrier;

(g) grow, raise, feed or culture the biosecurity matter or carrier;

(h) distribute the biosecurity matter or carrier;

(i) import the biosecurity matter or carrier;

(j) transport the biosecurity matter or carrier;

(k) dispose of the biosecurity matter or carrier;

(l) buy, supply or use the biosecurity matter or carrier for the purposes of, or in the course of, a dealing mentioned in any of paragraphs (a) to (k).

2 A person who holds a mortgage or other security interest in biosecurity matter or a carrier does not *deal with* the biosecurity matter or carrier only because the

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person takes a step to enforce the mortgage or other security.

designated animal see section 134.

designated biosecurity matter see section 136.

designated bird see section 135A.

designated details, for a registrable biosecurity entity, see section 148(1)(c).

designated officer means an authorised person, an inspector or a barrier fence employee.

designated place see section 148(1)(c)(i).

detection animal means an animal trained to detect the presence of a type of biosecurity matter.

director, of an invasive animal board, means a person appointed as a director under section 70(1).

disease means—

(a) the presence of a pathogenic agent in a host; or

Examples—

avian influenza, black Sigatoka, infection with *Perkinsus marinus*

(b) the clinical manifestation of infection; or

(c) a syndrome.

disposal order see section 319(2).

document certification requirement see section 323(6).

document production requirement see section 323(2).

domestic, in relation to a cat or dog, means a cat or dog that is owned by a person.

drive, in relation to an animal, means cause or allow the animal to travel by foot.

drover means a person who drives an animal.

emergency prohibited matter declaration see section 31(1).

environment includes the following—

(a) ecosystems and their constituent parts;

(b) natural and physical resources;

(c) the qualities and characteristics of locations, places and areas;

(d) the social, economic, aesthetic and cultural conditions affecting the matters in paragraph (a), (b) or (c) or affected by those matters.

executive officer, of a corporation, means a person who is concerned with or takes part in its management, whether or not the person is a director or the person's position is given the name of executive officer.

external review, for a decision, means a review of the decision by QCAT under the QCAT Act.

feral, in relation to an animal that is a deer, goat or pig—

1 A *feral* animal is an animal that—

(a) is living in a wild state; and

(b) is not being farmed or kept for any other purpose.

2 For paragraph 1(b), an animal is being farmed or kept for another purpose only if it is kept in an escape-proof enclosure, cage or other structure.

fit, to an animal, see section 175.

former owner, of a thing, see section 312(2).

fund see section 56.

general biosecurity obligation see section 23.

general biosecurity obligation offence provision means section 24.

general power see section 296(1).

government and industry agreement see section 391(1).

government entity see the *Government Owned Corporations Act 1993*, section 4.

guideline means a guideline made by the chief executive under chapter 5, part 2.

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help requirement see section 297(1).

HIN see section 158(1).

hive means a receptacle for housing living bees that contains moveable frames in which the combs are built, and which may be separately and readily removed from the receptacle for examination.

hold, designated biosecurity matter, see section 140.

holding facility means a place where 1 or more types of designated animal are regularly or periodically congregated on a temporary basis, including, for example, any of the following—

(a) a local government reserve or commonage;

(b) a pound;

(c) an animal refuge;

(d) a saleyard;

(e) a meat processing facility;

(f) a live export holding;

(g) a showground for designated animals;

(h) a sporting ground for designated animals;

(i) a stock route.

ICA scheme, for chapter 15, see section 411.

ICA system, for chapter 15, see section 411.

identity card, for a provision about a designated officer, means an identity card issued under section 329(1).

information notice, for a decision, means a notice stating each of the following—

(a) the decision and the reasons for it;

(b) the rights of review and appeal under this Act;

(c) the period in which any review or appeal under this Act must be started;

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(d) how rights of review and appeal under this Act are to be exercised;

(e) that a stay of a decision the subject of an appeal under this Act may be applied for under this Act.

information requirement see section 326(3).

inspector means a person who holds office under chapter 10, part 1 as an inspector.

intergovernmental agreement see section 390.

internal review application see section 362.

internal review decision see section 365(1)(b).

invasive animal—

(a) means a species of animal that has, or is likely to have, an adverse impact on a biosecurity consideration because of the introduction, spread or increase in population size of the species in an area; and

(b) includes a species of animal that is prohibited matter or restricted matter.

invasive animal board see section 62(1).

invasive biosecurity matter, for a local government area, see section 48(1).

invasive plant—

(a) means a plant species that has, or is likely to have, an adverse impact on a biosecurity consideration because of the introduction, spread or increase in population size of the species in an area; and

(b) includes a plant species that is prohibited matter or restricted matter.

investigation and enforcement provisions means chapter 10.

issuing authority, for a document, order or other thing given to a person, means—

(a) if the thing is given by the chief executive or a person for the chief executive—the chief executive; or

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(b) if the thing is given by a person for a local government—the local government; or

(c) if the thing is given by a person for an invasive animal board—the invasive animal board.

keep, a designated animal, see section 139.

land—

1 *Land* includes—

(a) land that is, or is at any time, covered by Queensland waters; and

(b) water in, on and above land; and

(c) the airspace above the surface of land; and

(d) the subsoil of land.

2 *Land*, of an owner, includes—

(a) unfenced land, including unfenced land comprising part of a road or stock route that adjoins or is within the owner's land; and

(b) other land that is fenced in with the owner's land; and

(c) the bed, banks and water of a watercourse on the owner's land.

Land Act means the *Land Act 1994*.

Land Title Act means the *Land Title Act 1994*.

live export holding means—

(a) a depot for the live export of designated animals; or

(b) an embarkation point for the export of live designated animals.

Local Government Act means the *Local Government Act 2009*.

local government compliance notice see section 50(2).

loss, of property, means a total, or effectively a total, loss of the property because it is destroyed.

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lot means a lot under the Land Act or Land Title Act.

M+I means moisture plus insoluble impurities, as measured by the American Oil Chemists' Society's official methods in its document called 'Official Methods and Recommended Practices of the AOCS, 6th Edition'.

meat processing facility means an abattoir or other facility at which designated animals are killed for meat for trade or commerce.

movement control order see section 124(1).

movement record see section 194(2)(a).

movement record requirement means section 194.

natural environment means the environment, but having particular regard to ecosystems and their constituent parts and natural and physical resources.

natural resource management body means a body having an interest in managing biosecurity risks.

Examples—

Condamine Alliance, Burnett Mary Regional Group

neighbouring place, to another place, means a place some or all of which is within 20km of the other place.

NLIS means the system known as the 'national livestock identification system', agreed to by the Commonwealth and the States under a resolution of the Primary Industries Ministerial Council of 2 October 2003.

NLIS administrator see section 144.

nonconformance audit means an audit by an auditor to check that any noncompliance with the following, identified in an audit, has been remedied—

(a) for an audit of the business of the other party to a compliance agreement—the compliance agreement;

(b) for an audit of an accredited certifier's activities as an accredited certifier—the accreditation;

(c) for an audit of an approved operator's operation of an approved biosecurity accreditation scheme—

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(i) the approval conditions; and

(ii) the scheme.

notice means a written notice.

notional reduction in value, of property, see section 341.

notional value, of property, see section 341.

obstruct includes assault, hinder, resist, attempt to obstruct and threaten to obstruct.

occupier, of a place—

1 For chapter 7, see section 143.

2 Otherwise, *occupier* includes the following—

(a) if there is more than 1 person who apparently occupies the place—any 1 of the persons;

(b) any person at the place who is apparently acting with the authority of a person who apparently occupies the place;

(c) if no-one apparently occupies the place—any person who is an owner of the place.

of, a place, includes at or on the place.

offence warning, for a direction or requirement by an authorised officer, means a warning that, without a reasonable excuse, it is an offence for the person to whom the direction or requirement is made not to comply with it.

operational area, of an invasive animal board, see section 62(3).

operational procedures, for chapter 15, see section 411.

original decision see section 364(1).

other party, to a compliance agreement, see section 393(1)(b).

owner, of a biosecurity accreditation scheme, for chapter 15, see section 411.

owner—

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1 The *owner* of a thing, other than a cat or dog, that has been seized under this Act includes a person who would be entitled to possession of the thing, other than a cat or dog, had it not been seized.

2 The *owner* of a place is—

(a) if the place is freehold land—the person who under the Land Title Act is its registered owner; or

(b) if the place is the subject of a lease under the Land Act—the person who, under the Land Act, is registered as the lessee of the place; or

(c) otherwise—the entity having responsibility for the care and control of the place.

3 The *owner* of a cat or dog is the person who is, under the *Animal Management (Cats and Dogs) Act 2008*, the owner of the cat or dog.

permit document, in relation to a prohibited matter permit or restricted matter permit, means the document evidencing the permit, given to the holder of the permit by the chief executive.

permit plan, for prohibited matter or restricted matter, see section 213.

personal details requirement see section 321(5).

person in control—

(a) of a vehicle, includes—

(i) the vehicle's driver or rider; and

(ii) anyone who reasonably appears to be, claims to be, or acts as if he or she is, the vehicle's driver or rider or the person in control of the vehicle; or

(b) of another thing, includes anyone who reasonably appears to be, claims to be, or acts as if he or she is, the person in possession or control of the thing.

PIC see section 151(2).

place includes the following—

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(a) premises;

(b) vacant land;

(c) a place in Queensland waters;

(d) a place held under more than 1 title or by more than 1 owner;

(e) the land or water where a building or structure, or a group of buildings or structures, is situated.

place of origin, for chapter 7, part 3, division 2, see section 179(1)(b).

plant includes the following—

(a) the whole or part of a flower, shrub, tree, vegetable, vine or other vegetation;

(b) the whole or part of the fruit or nut of a shrub, tree or vine;

(c) the whole or part of the reproductive material of a flower, shrub, tree, vegetable, vine or other vegetation or its seeds;

(d) any material, whether alive or dead, used for the propagation of a flower, shrub, tree, vegetable, vine or other vegetation.

police service means the Queensland Police Service.

possess, a thing, means—

(a) have custody of the thing; or

(b) have control of it at any place, whether or not someone else has custody of it.

poultry means—

(a) birds of the order Galliformes (including, for example, chickens, turkeys, pheasants, partridge, quail, guineafowl, peafowl), ducks, geese, pigeons and doves; or

(b) any other bird prescribed by regulation.

premises includes—

(a) a building or other structure; and

(b) a part of a building or other structure; and

(c) a caravan or vehicle; and

(d) a cave or tent; and

(e) premises held under more than 1 title or by more than 1 owner.

prescribed designated animal see section 134(b).

prescribed information, for chapter 7, part 3, division 3, see section 183.

prevention and control program see section 234.

program authorisation see section 235(1).

prohibited feed for pigs and poultry see section 45A.

prohibited matter see section 19.

prohibited matter permit see section 209.

prohibited matter regulation see section 30(1).

property, for chapter 11, see section 340.

proposed action—

(a) for chapter 14, part 3, division 3—see section 404(3)(a); or

(b) for chapter 17, part 3—see section 484(1).

public office, of a local government, means the local government's public office under the Local Government Act.

public place means—

(a) a place, or part of the place—

(i) the public is entitled to use, is open to members of the public or is used by the public, whether or not on payment of money; or

Examples of a place that may be a public place under subparagraph (i)—

a beach, a park, a road

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(ii) the occupier of which allows, whether or not on payment of money, members of the public to enter; or

Examples of a place that may be a public place under subparagraph (ii)—

a saleyard, a showground, a stock route

(b) a place that is a public place under another Act.

rates means rates within the meaning of—

(a) for a local government other than the Brisbane City Council—the Local Government Act; or

(b) for the Brisbane City Council—the City of Brisbane Act.

reasonably believes means believes on grounds that are reasonable in the circumstances.

reasonably suspects means suspects on grounds that are reasonable in the circumstances.

receiver, of a special designated animal, see section 185(a).

recipient, of a biosecurity order, see section 373(1).

registered biosecurity entity means an entity that, as a registrable biosecurity entity, has obtained registration under chapter 7, part 2.

registrable biosecurity entity see section 141.

registration details see section 169(1).

registration exemption, for a registrable biosecurity entity, see section 146(1).

regulated biosecurity matter, for biosecurity zone regulatory provisions, see section 128(1)(a).

relevant accreditation offence see section 411.

relevant authority, for chapter 17, see section 478.

relevant biosecurity offence means—

(a) an offence against this Act or a repealed Act; or

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(b) an offence against a law that is a corresponding law to a provision of this Act.

relevant entity, for a seized thing, see section 310(5).

repealed Act—

1 For schedule 3, part 3—see schedule 3, section 76.

2 Otherwise, *repealed Act* is—

(a) the repealed *Agricultural Standards Act 1994*; or

(b) the repealed *Apiaries Act 1982*; or

(c) the repealed *Diseases in Timber Act 1975*; or

(d) the repealed *Exotic Diseases in Animals Act 1981*; or

(e) the repealed *Plant Protection Act 1989*; or

(f) the repealed *Stock Act 1915*.

reporting requirement, for chapter 7, part 3, division 3, see section 183.

residence means a premises or a part of premises that is a residence within the meaning of section 259(2) and (3).

restricted agricultural show, for chapter 7, part 3, division 3, see section 183.

restricted animal means a designated animal declared to be a restricted animal under section 162A.

restricted animal material see section 45B.

restricted biosecurity matter means designated biosecurity matter declared to be restricted biosecurity matter under section 162C.

restricted matter see section 21.

restricted matter permit see section 210.

restricted matter regulation see section 39(1).

restricted place means a place declared to be a restricted place under chapter 7, part 2.

review notice day see section 366(2)(a)(i).

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RFID number, for a microchip, means the number of the microchip.

saleyard means any yard, premises or place where designated animals are—

(a) sold or offered or exhibited for sale by public auction or tender; or

(b) held or kept for the purpose of being sold or offered or exhibited for sale by public auction or tender; or

(c) held or kept on being sold by public auction or tender.

scheme compensation see section 342(2).

show cause notice—

(a) for chapter 14, part 3, division 3—see section 404(2); or

(b) for chapter 17, part 3—see section 484(1).

show cause period—

(a) for chapter 14, part 3, division 3—see section 404(3)(e); or

(b) for chapter 17, part 3—see section 484(2)(f).

special designated animal see section 135.

statutory compensation see section 345(1).

stock route see the *Stock Route Management Act 2002*, schedule 3.

suitable approved device see section 177.

supply includes supply by sale, exchange or gift.

surveillance program see section 233.

syndrome means a symptom, condition, disorder or other thing described by clinical signs, if the cause is unknown.

third party, for chapter 13, part 1, division 3, see section 382(1).

threshold amount, of designated biosecurity matter, see section 138.

threshold number, of designated animals, see section 137.

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TORUM means the *Transport Operations (Road Use Management) Act 1995*.

travel approval see section 180(d).

vehicle—

1 For chapter 6, part 1, other than section 119, *vehicle* means a vehicle under TORUM.

2 For chapter 10, *vehicle* means—

(a) a vehicle under TORUM; and

(b) includes a vessel under that Act.

3 Otherwise, *vehicle* means—

(a) an aircraft, including a helicopter; or

(b) any of the following under TORUM—

(i) a train;

(ii) a tram;

(iii) a vehicle;

(iv) a vessel.

waste see the *Waste Reduction and Recycling Act 2011*, section 8AA.

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