
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.

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.

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—1000 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—1000 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—

- (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.

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

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;

- (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.

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.

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—

- (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.

- (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.

- (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.

- (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.

- (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—

- (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.

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.

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

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

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.

- (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

- (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.

- (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

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;

- (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;

- (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;

- (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.

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;

- (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.

- (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.

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—

- (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) to (c).
- (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.

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;

- (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—

- (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)(f)(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—

- (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

- (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.

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

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.

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

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.

- (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

- (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*** means information, other than information that is publicly available—
- (a) about a person's personal affairs or reputation; or
 - (b) that would be likely to damage the commercial activities of a person to whom the information 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 (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—
 - (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—
 - (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 State employee under the *Public Service Act 2008*, section 26B(4) engaging in conduct in an official capacity under section 26C of that Act; or

Note—

For protection from civil liability in relation to State employees, see the *Public Service Act 2008*, section 26C.

(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
- (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.
- (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.

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.

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.

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

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
- (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;
- (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 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.

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

- (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.
- (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 Regulation-making power for transitional purposes

515 Transitional regulation-making power

- (1) A regulation (a *transitional regulation*) may make provision of a saving or transitional nature about any matter—
 - (a) for which it is necessary to make provision to allow or to facilitate the doing of anything to achieve the transition from a repealed Act or the amended Act to this Act; and
 - (b) for which this Act does not provide or sufficiently provide.
- (2) A transitional regulation may have retrospective operation to a day that is not earlier than the commencement.
- (3) A transitional regulation must declare it is a transitional regulation.
- (4) This part and any transitional regulation expire 1 year after the commencement.
- (5) The *Acts Interpretation Act 1954*, section 20A, as applied under the *Statutory Instruments Act 1992*, section 14, applies in relation to the expiry.

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

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 (*Piscirickettsia 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*))

African horse sickness
 African swine fever
 Aujeszky's disease
 avian influenza, highly pathogenic
 avian mycoplasmosis (*Mycoplasma synoviae*)
 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 haemorrhagic disease (clinical disease)
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