

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.

- (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.

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
 - (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.

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.

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—1000 penalty units or 1 year's imprisonment.

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;

- (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

- (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 the chief executive is satisfied—
 - (a) the proposed dealings with prohibited or restricted matter are aimed at controlling or eradicating the matter; and
 - (b) the applicant will not derive any financial benefit from the dealings; and
 - (c) the chief executive will be advised of the progress and outcomes of the dealings.

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 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
 - (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
 - (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.

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.

- (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.
- (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) to (c).
- (4) The chief executive must consider the application and decide to renew, 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 impose conditions on the permit under section 223, the chief executive must as soon as practicable give the applicant an information notice for the decision.
- (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 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—1000 penalty units or 1 year's imprisonment.

- (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 may transfer a permit on 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.

- (5) 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.

- (6) 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.
- (7) The chief executive is taken to have refused to transfer the permit if the chief executive does not decide the application within 30 days after the chief executive receives the application.
- (8) 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.
- (9) 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.
- (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 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;
 - (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

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;
 - (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;

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 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—
- (a) direct an 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 an occupier 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 occupier 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) An occupier of a place must comply with a direction under section 237 unless the occupier 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.

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.
- (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—
 - (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 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*;
 - (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.

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.
- (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.
- (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
 - (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—
- (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
 - (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
 - (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.

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

- (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.