

Part 4 Other offences

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

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

- (a) contains or may contain—
 - (i) a carcass of a mammal or of a bird; or
 - (ii) material derived from a mammal or bird; or

Examples—

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

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

- (i) a carcass of a mammal or of a bird; or
- (ii) material derived from a mammal or bird.

Example for subsection (1)—

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

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

(a) material prescribed by regulation; or

Examples of material that may be prescribed—

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

(b) material rendered in accordance with AS 5008.

Examples of rendered material—

blood meal, meat meal, meat and bone meal

45B What is *restricted animal material*

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

(a) contains or may contain—

- (i) a carcass of an animal that is a vertebrate; or
- (ii) material derived from an animal that is a vertebrate; or

Examples—

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

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

- (i) a carcass of an animal that is a vertebrate; or
- (ii) material derived from an animal that is a vertebrate.

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

Examples of material that may be prescribed—

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

46 Prohibitions on feeding or supplying restricted animal material

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

Maximum penalty—400 penalty units.

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

Maximum penalty—400 penalty units.

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

Maximum penalty—400 penalty units.

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

- (a) the person has a reasonable excuse; or
- (b) both of the following apply—
 - (i) a regulation states that the subsection does not apply in a stated circumstance or other state of affairs (including, for example, if stated requirements are satisfied or stated attributes exist);
 - (ii) the circumstance or other state of affairs exists in relation to the person for the ruminant the subject of the offence.

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

- (a) the person—
 - (i) is, under section 46B, permitted by the chief executive to feed the material to a ruminant lawfully used for a scientific purpose; and
 - (ii) feeds the material to the ruminant in the way permitted by the chief executive; or
- (b) the feeding is authorised under another Act or a law of the Commonwealth.

Note—

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

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

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

Maximum penalty—400 penalty units.

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

Maximum penalty—400 penalty units.

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

Maximum penalty—400 penalty units.

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

(a) the person has a reasonable excuse; or

(b) both of the following apply—

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

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

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

(a) the person—

- (i) is, under section 46B, permitted by the chief executive to feed the material to a pig or poultry lawfully used for a scientific purpose; and
- (ii) feeds the material to the ruminant, pig or poultry in the way permitted by the chief executive; or
- (b) the feeding is authorised under another Act or a law of the Commonwealth.

Note—

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

- (6) A person who feeds prohibited feed for pigs and poultry to a pig for the purpose of disease control does not commit an offence against subsection (1), (2) or (3) if—
 - (a) all of the following apply—
 - (i) the feeding is done by or carried out under the written direction of a veterinary surgeon;
 - (ii) the material is derived from a pig;
 - (iii) the pig from which the material was derived was kept only at the designated place where the pig being fed is kept; or
 - (b) the person uses the material—
 - (i) in a poisoned bait for killing a feral pig; or
 - (ii) as a preliminary to baiting a feral pig to kill it, and the material is not poisoned.

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

- (1) This section empowers the chief executive to permit feeding of particular animals for section 46(5)(a)(i) or 46A(5)(a)(i).
- (2) The chief executive may, in writing, permit a person to feed—
 - (a) restricted animal material to a ruminant lawfully used for a scientific purpose; or

- (b) prohibited feed for pigs and poultry to a pig or poultry lawfully used for a scientific purpose.
- (3) The chief executive may permit the feeding if the chief executive is satisfied on reasonable grounds the research or other use for a scientific purpose will be conducted under controls that ensure—
 - (a) any risks posed by the research or other use for a scientific purpose can be managed in a way that protects the health and safety of people and animals; and
 - (b) the person will know the location of, and have control of, the ruminant, pig or poultry at all times the research is being conducted.

47 Notifiable incidents

- (1) This section applies to a person if—
 - (a) the person becomes aware that an incident has happened; and
 - (b) the person believes that the incident is a notifiable incident, or ought reasonably to believe that the incident is a notifiable incident; and
 - (c) the person has no grounds to believe that an inspector has already been made aware of the happening of the incident.
- (2) The person must, unless the person has a reasonable excuse—
 - (a) advise an inspector of the incident in accordance with the requirements stated in this section; and
 - (b) otherwise comply with the requirements of this section in relation to the incident.

Maximum penalty—1000 penalty units.

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

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- (a) be given without delay, whether in the approved form or in another way, including, for example, in person or by telephone, or by email or another electronic means; and
 - (b) state enough particulars to identify the incident, its nature and its location.
- (5) The advice must be accompanied, or be followed as soon as practicable, by any documents that reasonably relate to the incident, including, for example, an analyst's report of analysis showing the results of testing.
- (6) The person must not take any action reasonably likely to exacerbate, and must take any action reasonably likely to minimise, the biosecurity risk posed by any biosecurity matter or carrier the subject of the incident.

Example—

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

- (7) In this section—

incident includes event.

notifiable incident means—

- (a) a biosecurity event; or
- (b) without limiting paragraph (a), the happening of any of the following—
 - (i) the appearance of blisters on the mouths or feet of designated animals;
 - (ii) an abnormally high mortality rate or morbidity rate in plants or in designated animals;
 - (iii) a sudden and unexplained fall in production relating to plants or designated animals;
 - (iv) the presence of a contaminant in a carrier in an amount more than the maximum acceptable level prescribed under a regulation for the carrier;
 - (v) the appearance of other symptoms or conditions prescribed under a regulation that may indicate the

presence of biosecurity matter which may cause adverse effects on a biosecurity consideration.

Chapter 3 **Matters relating to local governments**

Part 1 **Provisions about functions and obligations of local governments**

48 Main function of local government

- (1) The main function under this Act of each local government is to ensure that the following biosecurity matter (***invasive biosecurity matter*** for the local government's area) are managed within the local government's area in compliance with this Act—
 - (a) prohibited matter mentioned in schedule 1, parts 3 and 4;
 - (b) prohibited matter taken to be included in schedule 1, parts 3 and 4 under a prohibited matter regulation or emergency prohibited matter declaration;
 - (c) restricted matter mentioned in schedule 2, part 2;
 - (d) restricted matter taken to be included in schedule 2, part 2 under a restricted matter regulation.
- (2) However, a local government is not responsible for managing invasive biosecurity matter in the local government area to the extent the matter is an invasive animal managed by an invasive animal board and its operational area is within the local government area.

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

49 When State and local government act in partnership

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

Example—

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

Note—

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

50 Minister may direct local government to perform function or obligation

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

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

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

- (2) The Minister may, by notice (*local government compliance notice*) given to the local government, direct it to perform the function or obligation.
- (3) However, before giving the local government compliance notice, the Minister must consult with the local government and consider the local government's views about the performance of the function or obligation.
- (4) The notice must state the following—
 - (a) the function or obligation the Minister believes the local government is not performing;
 - (b) what action the Minister requires the local government to take to perform the function or obligation;
 - (c) the day by which the stated action must be taken.
- (5) The local government must comply with the notice.

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

- (1) This section applies if a local government has been given a local government compliance notice and the chief executive is satisfied the local government has not achieved substantial compliance with the notice.
- (2) This section also applies if a local government has been given a local government compliance notice and the chief executive and the local government agree that the local government can not achieve substantial compliance with the notice.
- (3) The chief executive may by gazette notice—
 - (a) state any function or obligation mentioned in the notice that the local government has not complied with; and
 - (b) declare that, for a stated period, the function or obligation is given to the chief executive; and
 - (c) state that the chief executive proposes to perform the function or obligation; and

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- (d) state what action the chief executive proposes to take to perform the function or obligation.
 - (4) The chief executive may perform the function or obligation, and take the stated action.
 - (5) The chief executive, in performing the function or obligation or taking the action, has the powers of the local government before the gazette notice was made in relation to the function, obligation or action.
 - (6) The costs reasonably incurred by the chief executive in performing or taking action for a function or obligation of a local government are a debt payable by the local government to the State.

52 Minister may ask for particular information from local government

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

Example—

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

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

Part 2 Biosecurity plans for local government areas

53 Local governments to have biosecurity plan

- (1) A local government must have a biosecurity plan for invasive biosecurity matter for its local government area.
- (2) The plan may include provision for each of the following—
 - (a) achievable objectives under the plan;

- (b) strategies, activities and responsibilities for achieving the objectives;
- (c) strategies to inform the local community about the content of the plan and achievement of its objectives;
- (d) monitoring implementation of the plan and evaluating its effectiveness;
- (e) other matters the local government considers appropriate for management of invasive biosecurity matter for its local government area.

54 Plan to be available for inspection

- (1) Each local government must keep a copy of its biosecurity plan available for inspection, free of charge, by members of the public at the local government's public office.
- (2) The plan may be made available in written or electronic form.

55 Local governments acting concurrently for biosecurity plan

- (1) This part, in requiring each local government to have a biosecurity plan, does not stop 2 or more local governments from acting concurrently to propose and adopt the same biosecurity plan for each of the local governments or to subsequently amend the plan.
- (2) Each local government whose biosecurity plan is identical with the biosecurity plan of another local government must implement the plan in its own local government area to the extent the plan relates to that area.

Part 3 Land Protection Fund

56 Continuation of Land Protection Fund

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

57 Purpose and administration of fund

- (1) The purpose of the fund is to record amounts received for, and paid from, the fund to provide for activities that help local governments manage invasive animals and invasive plants.
- (2) Activities that help a local government manage invasive animals and invasive plants include, for example, the following—
 - (a) research about managing invasive animals or invasive plants in the local government's area;
 - (b) educational or training programs about invasive animals or invasive plants in the local government's area;
 - (c) the maintenance by an invasive animal board of any part of the barrier fence included in, or that benefits, the local government's area;
 - (d) taking action under a biosecurity program for invasive animals or invasive plants in the local government's area.

Example for paragraph (d)—

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

- (3) Accounts for the fund must be kept as part of the departmental accounts of the department.
- (4) However, amounts received for the fund may be deposited in a departmental financial institution account of the department with other moneys of the department.
- (5) Amounts received for the fund include the following—
 - (a) amounts made available by the chief executive for the fund;
 - (b) amounts given to the chief executive by another entity for this Act;
 - (c) the proceeds of the sale or hire of any buildings, equipment or machinery acquired by the Minister or chief executive in relation to a matter under this chapter or chapter 4;

- (d) the amount of any costs incurred and recovered by the chief executive in relation to a matter under chapter 4;
 - (e) the amount of any payment required by the Minister under section 60;
 - (f) other amounts received under this Act and prescribed under a regulation.
- (6) In this section—

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

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

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

58 Payments from fund

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

- (a) expenses incurred by the chief executive;
- (b) amounts necessary for the operations of an invasive animal board;
- (c) an amount authorised by the chief executive under this Act as payable from the fund;
- (d) other amounts required or permitted by this Act to be paid out of the fund.

59 Consultation with local government about activities

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

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

60 Minister may require local government to make annual payment

- (1) The Minister may, by notice, require a local government to pay an amount for a financial year to the chief executive for services provided or to be provided by the chief executive or an invasive animal board for activities that help the local government manage invasive animals and invasive plants in the local government's area.
- (2) The amount must not be more than the maximum amount prescribed under a regulation for the local government.
- (3) In recommending the maximum amount, the Minister must have regard to the nature and extent of the services provided or to be provided by the chief executive or an invasive animal board in the local government's area, including, for example—
 - (a) any of the following services—
 - (i) research about prevention and control techniques for invasive animals and invasive plants;
 - (ii) public education;
 - (iii) planning and mapping services;
 - (iv) training and technical advice for individuals and groups;
 - (v) strategic and preventative control of invasive animals and invasive plants; or
 - (b) whether land in the area may benefit from action taken by the chief executive or an invasive animal board, including, for example, action taken under a biosecurity program, a movement control order or a biosecurity emergency order or action to keep in good order any part of the barrier fence included in, or that benefits, the local government's area.

- (4) The notice must state the period in which the amount required under the notice must be paid.
- (5) The local government must pay the amount to the chief executive in the stated period.

61 Minister must give local government report about activities

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

Chapter 4 Invasive animal barrier fencing

Part 1 Invasive animal boards

Division 1 Establishment

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

- (1) An *invasive animal board* is an entity declared under a regulation to be an invasive animal board.
- (2) The regulation must—
 - (a) name the board; and
 - (b) state the invasive animal to be managed by the board; and

- (c) state the part of the barrier fence for which the board is responsible; and
- (d) state the number of directors of the board.
- (3) The regulation may identify the area (the *operational area*) in which the invasive animal board will carry out activities to manage the invasive animal.

63 Legal status

- (1) An invasive animal board—
 - (a) is a body corporate; and
 - (b) has a seal; and
 - (c) may sue and be sued in its corporate name.
- (2) An invasive animal board represents the State.
- (3) Without limiting subsection (2), an invasive animal board has all the privileges and immunities of the State.

64 Application of other Acts

- (1) An invasive animal board is a statutory body under—
 - (a) the *Financial Accountability Act 2009*; and
 - (b) the *Statutory Bodies Financial Arrangements Act 1982*.
- (2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which an invasive animal board's powers under this Act are affected by that Act.

65 Board's function

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

- (2) Without limiting subsection (1), an invasive animal board's function includes—
 - (a) regularly inspecting the fence part; and
 - (b) repairing the fence part; and
 - (c) replacing damaged sections of the fence part that can not be repaired; and
 - (d) clearing obstructions from on or near the fence part to ensure the fence's integrity as a barrier.
- (3) If an invasive animal board has an operational area for an invasive animal, the board also has the function of managing the animal in the operational area.

66 Board's powers

- (1) An invasive animal board has the powers of an individual and may, for example, do any of the following—
 - (a) enter into contracts;
 - (b) acquire, hold, deal with and dispose of property;
 - (c) appoint and act through agents and attorneys;
 - (d) charge, and fix terms, for goods, services and information it supplies;
 - (e) employ staff and engage consultants;
 - (f) do anything else necessary or convenient to be done in performing its function.
- (2) Without limiting subsection (1), an invasive animal board has the powers given to it under this Act.

67 Minister may give direction to board

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

- (2) The board must comply with the direction.
- (3) Before giving the direction, the Minister must consult with the board.
- (4) The Minister must publish in the gazette a copy of the direction within 21 days after the direction is given.

Division 2 Board directors

68 Control of board

The directors of an invasive animal board control the board.

69 Role of directors

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

70 Appointment of directors

- (1) The directors of an invasive animal board are to be appointed by the Minister.
- (2) A regulation may prescribe—
 - (a) the number of directors that must be appointed to an invasive animal board to represent a local government whose area includes the board's part of the barrier fence; and
 - (b) the minimum qualifications a person must have to be appointed as a director.

Example for paragraph (b)—

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

71 Chairperson

- (1) The chairperson of the board of directors is the director chosen as chairperson by the directors.
- (2) If the chief executive is not notified of a chairperson chosen by the directors within 1 month after the first meeting of the board of directors, the chairperson is the director chosen by the chief executive.
- (3) The chairperson holds office until the first meeting of the board of directors occurring at least 1 year after the director's selection as chairperson.

72 Disqualification for directorship

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

- (a) is an insolvent under administration within the meaning of the Corporations Act, section 9; or
- (b) is, or has been, convicted of—
 - (i) an indictable offence, whether on indictment or summarily; or
 - (ii) an offence against this Act.

73 Term of appointment

- (1) Subject to subsections (2) and (3), a director of an invasive animal board is appointed for the term, of no more than 4 years, stated in the director's instrument of appointment.
- (2) The director continues holding office after the director's term of office ends until the director's successor is appointed.
- (3) If a person is appointed to fill a casual vacancy in the office of a director, the person is appointed only for the remainder of the director's term of office.

74 Termination of appointment

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

- (a) the director ceases to be qualified to be a director or is absent from 3 consecutive meetings of the board without the board's leave and without reasonable excuse; or
- (b) the Minister is satisfied the director—
 - (i) is incapable of performing the duties of a director because of physical or mental incapacity; or
 - (ii) performed the director's duties carelessly, incompetently or inefficiently; or
 - (iii) has committed misconduct of a kind that could justify dismissal from the public service if the director were a public service officer.

75 Vacation of office

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

- (a) resigns by signed notice of resignation given to the board; or
- (b) is removed from office under this part.

76 Disclosure of interests

- (1) This section applies to a director of an invasive animal board if—
 - (a) the director has a direct or indirect financial or personal interest in a matter being considered, or about to be considered, by the board; and
 - (b) the interest could conflict with the proper performance of the director's duties about the consideration of the matter.

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

Maximum penalty—20 penalty units.

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

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

- (a) be present when the board considers the matter; or
- (b) take part in a decision of the board on the matter.

Maximum penalty—20 penalty units.

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

Maximum penalty—20 penalty units.

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

- (a) be present when the board is considering its decision under subsection (4); or
- (b) take part in making the decision.

Maximum penalty—20 penalty units.

- (7) In this section—

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

77 Director to act in board's interest

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

Division 3 Business and meetings

78 Conduct of business

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

79 Times and places of meetings

- (1) An invasive animal board must hold—
 - (a) its first meeting at the time and place decided by the chief executive; and
 - (b) at least 1 meeting a year.
- (2) The chairperson of an invasive animal board—
 - (a) may call a board meeting at any time; and
 - (b) must call a meeting if asked by at least one-half of the directors comprising the board or, if the number is not a whole number, the next highest whole number of directors.

80 Quorum

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

81 Presiding at meetings

- (1) The chairperson of an invasive animal board must preside at all meetings at which the chairperson is present.
- (2) If the chairperson is absent, the director chosen by the directors present must preside.

82 Conduct of meetings

- (1) A question at an invasive animal board meeting is decided by a majority of the votes of the directors of the board present and voting.
- (2) Each director present has a vote on each question to be decided and, if the votes are equal, the chairperson has a casting vote.
- (3) A director present at the meeting who abstains from voting is taken to have voted for the negative.
- (4) An invasive animal board may allow its directors to take part in its meetings by using any technology that reasonably allows directors to hear and take part in discussions as they happen.

Example of use of technology—

teleconferencing

- (5) A director who takes part in an invasive animal board meeting under subsection (4) is taken to be present at the meeting.
- (6) A resolution is validly made by an invasive animal board, even if it is not passed at a board meeting, if—
 - (a) a majority of the board's directors gives written agreement to the resolution; and
 - (b) notice of the resolution is given under procedures approved by the board.

83 Minutes

An invasive animal board must keep—

- (a) minutes of its proceedings; and
- (b) a record of its resolutions.

84 Fees and allowances

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

Division 4 Financial matters

85 Estimate of board's operational costs

- (1) An invasive animal board must, for each financial year, prepare and give to the Minister a written estimate of its operational costs for the year.
- (2) The estimate must be given to the Minister at least 2 months before the start of the financial year to which the estimate relates.
- (3) The estimate must be accompanied by a written statement stating—
 - (a) details, including a works program, for the items to which the costs relate; and
 - (b) an amount for each item.

86 Approval for carrying out board's operations

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

Examples of other things—

acquisition of land, machinery, equipment or materials

- (2) In deciding whether to approve the works program or other things, the Minister must have regard to—
 - (a) the board's function; and
 - (b) the expenditure involved in carrying out the works program or doing the other things.

Division 5 Miscellaneous

87 Delegation

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

88 Annual report

- (1) As soon as practicable after the end of each financial year, an invasive animal board must prepare and give to the Minister a written report about the board's operation during the year.
- (2) As soon as practicable after receiving the report, the Minister must table a copy of it in the Legislative Assembly.

Part 2 Barrier fences

Division 1 Identification of the barrier fence

89 What is the *barrier fence*

- (1) The *barrier fence* is the fence made up of the sections of fencing built along the following lines—
 - (a) the line shown as the 'wild dog barrier fence' on the barrier fence map;
 - (b) the lines shown as the 'wild dog check fence' on the barrier fence map;
 - (c) the line shown as the 'rabbit fence' on the barrier fence map.
- (2) A *barrier fence part* is a section of fencing of the barrier fence.

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

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

- (a) if a regulation states an invasive animal board is responsible for a barrier fence part—the board; or
- (b) if a regulation states 1 or more local governments are responsible for a barrier fence part—the local government or local governments jointly; or
- (c) otherwise—the chief executive.

91 Barrier fence map and amendment of map

- (1) The barrier fence is shown on the electronic map called ‘Barrier Fence Map for Queensland’ (the *barrier fence map*) held by the department, as amended from time to time under this section.
- (2) The chief executive may amend the barrier fence map to more accurately show the location of the barrier fence or of any adjustment of the fence.
- (3) Before amending the barrier fence map under subsection (2), the chief executive must consult with—
 - (a) the building authority, other than the chief executive, for the barrier fence part affected by the amendment; and
 - (b) any owner of land affected by the amendment.
- (4) If the chief executive decides to amend the barrier fence map, the chief executive must create a new version of the map that includes the amendment and notify the following that the amendment has been made—
 - (a) the invasive animal board for the barrier fence part affected by the amendment;
 - (b) the local government—
 - (i) for the barrier fence part affected by the amendment; or
 - (ii) for the area within which the barrier fence part affected by the amendment is located, if there is no

local government as mentioned in subparagraph (i);

- (c) any owner of land affected by the amendment.
- (5) The chief executive may, without charge, publish the barrier fence map on the department's website or make the map available for inspection at the department's head office during business hours.

Division 2 Maintaining barrier fences

92 Building gates and grids in barrier fence

- (1) This section applies if a barrier fence part—
 - (a) intersects the land of a person; and
 - (b) unreasonably hinders movement by a person or by designated animals from a part of the land to another part.
- (2) The building authority for the barrier fence part must build and pay for a gate or grid in the fence to allow the movement.

93 Maintaining barrier fence

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

- (a) clear the fence line of vegetation or any other obstruction to a distance of no more than 20m either side of the fence; and
- (b) enter onto a place to clear the fence line under paragraph (a), or to inspect the fence or repair or otherwise maintain it.

94 Power to enter a place

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

-
- (a) inspect or maintain the fence, including to inspect or maintain a gate or grid in the fence; or
 - (b) clear the fence line.
 - (2) The building authority must, before entering the place—
 - (a) obtain the occupier's consent to the entry; or
 - (b) give the occupier notice of—
 - (i) the intended entry; and
 - (ii) the purpose of the entry; and
 - (iii) the proposed dates and times of entry.
 - (3) If the building authority is satisfied it is impracticable to give the notice under subsection (2)(b), it is sufficient compliance with the subsection if the building authority—
 - (a) publishes the notice in a newspaper circulating generally in the area in which the place is situated; or
 - (b) places the notice conspicuously on the place.
 - (4) Notice under this section must be given at least 7 days before the intended entry.
 - (5) However, if the building authority considers it necessary to enter the land because of urgent circumstances, the building authority must give the occupier only the notice that is reasonably practicable in the circumstances.

95 Agreement to make opening in barrier fence

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

Examples of purpose—

- to build a road or lay a gas pipeline through the fence
 - to pass through the fence to gain access to land for mineral exploration
- (2) The agreement must be subject to conditions that, as far as reasonably practicable, ensure the movement of a relevant

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

(3) In this section—

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

96 Directing restoration of barrier fence

- (1) This section applies if the building authority for a barrier fence part reasonably believes a person has unlawfully damaged, or made an opening in, the fence.
- (2) The building authority may, by notice given to the person, require the person, by the reasonable date stated in the notice, to restore the fence to the condition it was in before the fence was damaged or opened.
- (3) The notice must be accompanied by, or include, an information notice about the building authority's decision to make the requirement.
- (4) If the person does not comply with the notice, the building authority may—
 - (a) carry out the restoration; and
 - (b) recover from the person the building authority's reasonable costs of carrying out the restoration.

Division 3 Offences about barrier fence

97 Damaging, or making openings in, barrier fence

A person must not, without reasonable excuse—

- (a) damage a barrier fence part; or
- (b) make an opening in the barrier fence, other than under an agreement under section 95.

Maximum penalty—50 penalty units.

98 Obstructing inspection or maintenance of barrier fence

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

Maximum penalty—50 penalty units.

99 Closing gates

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

Maximum penalty—50 penalty units.

Part 3 Barrier fence employees

100 Appointment of barrier fence employees

- (1) The building authority for a barrier fence part may, by instrument in writing, appoint a person employed or engaged by the authority to exercise powers under this Act in relation to the barrier fence part.
- (2) However, the building authority may appoint the person only if it is satisfied the person is appropriately qualified.
- (3) A person appointed under this section is a *barrier fence employee*.

101 Powers of barrier fence employees generally

- (1) A barrier fence employee has the powers given in the employee's instrument of appointment.
- (2) In exercising the powers, the barrier fence employee is subject to the directions of the building authority that appointed the employee.

- (3) However, a barrier fence employee may exercise a power given to the employee in relation to a person only for—
- (a) entry on the person's land to perform work for the building authority necessary for the proper maintenance of the barrier fence part for which the authority is responsible; and
 - (b) properly maintaining the barrier fence part located on the person's land; and
 - (c) giving the person a notice to remedy damage, for which the person is responsible, to the barrier fence part.

Note—

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

102 Incidental entry to ask for access

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

- (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
- (b) enter part of the place the employee reasonably considers members of the public ordinarily are allowed to enter when they wish to contact an occupier of the place.

103 Matters employee must tell occupier

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

- (a) about the purpose of the entry, including the powers intended to be exercised; and
- (b) that the occupier is not required to consent; and

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

Chapter 5 Codes of practice and guidelines

Part 1 Codes of practice

104 Making codes of practice

- (1) A regulation may make codes of practice about matters relating to biosecurity.
- (2) Without limiting subsection (1), a code of practice may be made about any of the following—
 - (a) ways of minimising biosecurity risks associated with—
 - (i) agricultural activities; or
 - (ii) animal husbandry activities; or
 - (iii) land use practices that may spread invasive animals and invasive plants; or
 - (iv) dealing with carriers, including, for example, appropriate ways to treat infected or potentially infected carriers; or
 - (v) manufacturing processes for animal feed;
Example of animal feed—
feed for ruminants
 - (b) managing invasive animals and invasive plants and their impacts;
 - (c) implementing best practice in maintaining hygiene and standards of cleanliness of plant nurseries and places where designated animals are kept to protect the plants

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

- (d) ways to prevent, control and stop the spread of biosecurity matter by a carrier, including—
 - (i) procedures for disinfecting, cleaning and treating carriers; and
 - (ii) isolation of carriers introduced into the State from another State or moved from a part of the State to another part of the State; and
 - (iii) programs for disease eradication or vaccination; and
 - (iv) management of cattle ticks; and
 - (v) management of a thing that may cause or tend to cause the spread of disease;
- (e) the carrying out of any process, or the use of particular technologies, in an industry or another activity;
- (f) requirements for the content and labelling of animal feed, fertilisers and other agricultural inputs.

Example of an agricultural input that may require labelling—

a bag of seed for sowing that may contain weed seeds

105 Consultation about codes of practice

- (1) Before the making of a code of practice under this part is recommended to the Governor in Council, the chief executive must consult with relevant entities.
- (2) Subsection (1) does not apply to the adopted provisions of a code of practice.
- (3) A failure to consult under subsection (1) does not affect the validity of the code of practice.
- (4) In this section—

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

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

- (a) community groups;
- (b) professional and industry associations;
- (c) educational institutions;
- (d) natural resource management bodies.

106 Tabling and inspection of documents adopted in codes of practice

- (1) This section applies if—
 - (a) a regulation that makes a code of practice adopts, applies or incorporates the whole or a stated part of another document (the *adopted provisions*); and
 - (b) the adopted provisions are not part of, or attached to, the regulation.
- (2) The Minister must, within 14 sitting days after the regulation is notified, table a copy of the adopted provisions in the Legislative Assembly.
- (3) If the adopted provisions are amended, the Minister must, within 14 sitting days after the amendment is made, table a copy of the provisions as amended in the Legislative Assembly.
- (4) The chief executive must keep a copy of the adopted provisions, as in force from time to time, available for inspection, free of charge, by members of the public at—
 - (a) the department's head office; and
 - (b) other places the chief executive considers appropriate.
- (5) The adopted provisions may be made available in written or electronic form.
- (6) A failure to comply with subsection (2), (3) or (4) does not invalidate or otherwise affect the regulation.

Part 2

Guidelines

107 Chief executive may make guidelines

- (1) The chief executive may make guidelines to provide guidance to persons about—
 - (a) matters relating to the administration of this Act; and
 - (b) ways of discharging the general biosecurity obligation; and
 - (c) complying with other requirements imposed under this Act.
- (2) Without limiting subsection (1), a guideline may be about the following matters—
 - (a) the operation of provisions of this Act about monitoring and enforcement;
 - (b) ways of complying with requirements imposed under this Act in relation to restricted matter, including, for example, the following—
 - (i) steps an occupier of land may take to manage invasive plants and their impact on the land and adjoining land;
 - (ii) ways to avoid moving fire ants in or on soil;
 - (iii) ways to humanely kill, and appropriately dispose of, noxious fish;
 - (c) on-farm procedures for keeping and caring for horses;
 - (d) raising designated animals on land for the domestic needs of the occupants of the land.
- (3) The chief executive may make a guideline by adopting another entity's guideline with or without changes.
- (4) Before making a guideline, the chief executive must take reasonable steps to allow entities the chief executive considers may have an interest in the proposed guideline to give the chief executive written submissions about it.

Example—

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

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

108 Availability of guidelines

- (1) The chief executive must keep a copy of each guideline, as in force from time to time, available for inspection, free of charge, by local governments and members of the public at—
 - (a) the department's head office; and
 - (b) other places the chief executive considers appropriate.
- (2) Also, the chief executive must publish each guideline, as in force from time to time, on the department's website.

109 Obligation to have regard to guidelines

- (1) The contents of a guideline may be taken into account when considering whether a person has or has not discharged the person's general biosecurity obligation or otherwise complied with a provision of this Act.
- (2) However, it must not be presumed that a person who has failed to follow a guideline has breached the person's general biosecurity obligation or otherwise failed to comply with a provision of this Act.

Chapter 6 Managing biosecurity emergencies and risks

Part 1 Biosecurity emergencies

Division 1 Preliminary

110 Relationship to other Acts

- (1) Nothing in this part prevents a person from declaring a disaster situation or another emergency under another Act (*another declaration*).
- (2) However, the existence of another declaration does not prevent the declaration of a biosecurity emergency under this part.

Examples of other Acts—

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

- (3) In this section—

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

111 Other Acts not affected

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

- (a) the *Disaster Management Act 2003*; or
- (b) the *Public Health Act 2005*, chapter 8; or
- (c) the *Public Safety Preservation Act 1986*, part 3.

112 Powers under this part and powers under other Acts

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

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

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

Division 2 Declaring a biosecurity emergency

113 Chief executive may make biosecurity emergency order

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

Examples—

- 1 A biosecurity emergency order might be addressed at something that is currently happening. Accordingly, a biosecurity emergency order might be made because there is in progress an outbreak in horses of equine influenza that has been positively diagnosed on a number of properties in the biosecurity emergency area.
 - 2 A biosecurity emergency order might be addressed at something that may happen. Accordingly, a biosecurity emergency order might be made because a significant number of chickens have been found dead on a poultry farm in the biosecurity emergency area. The deaths could be the result of heat exhaustion. However, tests being urgently undertaken have not yet ruled out the possibility that the deaths have been caused by biosecurity matter, for example avian influenza.
- (2) As soon as practicable after making a biosecurity emergency order, the chief executive must—
- (a) publish in the gazette a notice of the making of the order, the order's subject matter generally and the places where a copy of the order may be obtained; and

- (b) take all reasonable steps to ensure that persons likely to be directly affected by the order are made aware of the making of the order, including, for example, by some or all of the following—
 - (i) advertising in newspapers, on radio and on television;
 - (ii) electronically using emails and text messages;
Example—
SMS messaging in the biosecurity emergency area
 - (iii) automated telephoning.
- (3) A biosecurity emergency order must be primarily directed at taking emergency action to isolate the biosecurity emergency area identified in the order, to stop the spread of any biosecurity matter associated with the biosecurity event and, if practicable, to eradicate the biosecurity matter.
- (4) The chief executive may make a biosecurity emergency order only if the chief executive is satisfied on reasonable grounds, having regard to the seriousness or potential seriousness of the biosecurity event and the extent of its impact or likely impact, that an emergency response as provided for in the order is necessary.
Examples—
 - 1 The chief executive may decide that a biosecurity emergency order is necessary to mitigate the adverse effects of a biosecurity event, including limiting its area of impact.
 - 2 The chief executive may decide a biosecurity emergency order is necessary to ensure that a biosecurity event does not take place at all.
- (5) However, before making a biosecurity emergency order, the chief executive must consult with the Minister and, if the biosecurity event has or is likely to have a significant impact on human health, must also consult with the chief health officer.
- (6) If it has not been practicable to consult with the Minister or the chief health officer under subsection (5), the chief

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

- (7) A biosecurity emergency order is not invalid only because of a failure of the chief executive to comply with subsection (2), (5) or (6).
- (8) To remove any doubt, it is declared that subsections (2) to (6) also apply for the amendment or revocation of a biosecurity emergency order, to the greatest practicable extent.

114 Matters for inclusion in biosecurity emergency order

- (1) A biosecurity emergency order must include provisions that state—
 - (a) the nature and apparent extent of the biosecurity emergency the subject of the order; and
 - (b) the area to which the order primarily relates (the ***biosecurity emergency area*** for the biosecurity emergency order); and
 - (c) the duties and obligations imposed on—
 - (i) occupiers of any place within the biosecurity emergency area or a part of the area; and
 - (ii) other persons in or in the vicinity of the biosecurity emergency area or a part of the area; and
 - (d) when the order expires if it is not sooner revoked; and
 - (e) any conditions relating to the conduct of the response to the biosecurity emergency.
- (2) Without limiting subsection (1), a biosecurity emergency order may include any of the following—
 - (a) a requirement for a person to publish warnings, in a form approved by the chief executive, that particular biosecurity matter or a carrier has had, is having or may have a significant adverse effect on a biosecurity consideration;

- (b) a prohibition on dealing with biosecurity matter or a carrier;
- (c) a prohibition or restriction on the movement of biosecurity matter or of a carrier—
 - (i) into the State; or
 - (ii) into or out of the biosecurity emergency area; or
 - (iii) into an area adjacent to the biosecurity emergency area, whether or not the movement is out of the biosecurity emergency area; or
 - (iv) out of an area adjacent to the biosecurity emergency area, whether or not the movement is into the biosecurity emergency area; or
 - (v) within the biosecurity emergency area;
- (d) conditions that must be complied with for movement of a type mentioned in paragraph (c);
- (e) requirements for the completion of a movement of a type mentioned in paragraph (c) if the movement is already in progress when the order is made;

Example—

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

- (f) actions required to be taken by a person that are reasonably necessary or desirable to prevent the introduction, establishment or spread of biosecurity matter the subject of the order or to otherwise control or eradicate the biosecurity matter;
- (g) requirements for a person (the ***relevant person***), including, for example, an owner of land within the biosecurity emergency area or a person who is in possession or control of a carrier within the biosecurity emergency area—
 - (i) to treat or destroy biosecurity matter (including biosecurity matter in water) or a carrier; or

-
- (ii) to allow any treatment, destruction, disposal, transport, decontamination or vaccination required under the order to be performed by, or under the direction of, an inspector and at the expense of the relevant person;
 - (h) a direction that biosecurity matter or a carrier that has been consigned to another person, distributed to another person for sale or sold to another person be recalled in the way, and within the period, stated in the order;
 - (i) requirements for notifying an inspector about the presence of particular biosecurity matter;
 - (j) a direction that biosecurity matter or a carrier intended to be used for human or animal consumption or plant production be impounded, isolated or destroyed or otherwise disposed of in the way stated in the order;
 - (k) an absolute prohibition on the carrying out of an activity in relation to biosecurity matter or a carrier;
 - (l) a prohibition on the carrying out of an activity in relation to biosecurity matter or a carrier other than in compliance with conditions stated in the order;
 - (m) requirements for, and conditions applying to, the taking and analysis of samples of biosecurity matter or of a carrier;
 - (n) methods that must be followed for analysis of samples of biosecurity matter or of a carrier, required to be taken and analysed under the order.
- (3) Also, a biosecurity emergency order may—
- (a) establish checkpoints (***biosecurity emergency checkpoints***) within or near the biosecurity emergency area for the order; and
 - (b) include objective criteria to apply for the stopping and checking of vehicles at the biosecurity emergency checkpoints.

- (4) Without limiting the ways in which a biosecurity emergency area may be identified, the area may be identified by reference to any of the following—
 - (a) an area outlined on a map;
 - (b) coordinates located using global positioning systems;
 - (c) real property descriptions;
 - (d) local government area boundaries or boundaries of divisions within a local government's area;
 - (e) electoral boundaries applying for State or Commonwealth elections;
 - (f) geographical features, including, for example, roads and rivers.

115 Effect and duration of biosecurity emergency order

- (1) A biosecurity emergency order has effect from when it is made, or from a later time provided for in the order.
- (2) Unless it is sooner revoked, a biosecurity emergency order expires on—
 - (a) the day that is 21 days after the order begins to have effect; or
 - (b) an earlier day stated in the order for that purpose.
- (3) Without limiting the chief executive's power to revoke a biosecurity emergency order, a movement control order may revoke a biosecurity emergency order.
- (4) If any of the following are inconsistent with a biosecurity emergency order, the order prevails to the extent of the inconsistency, while the order is in force—
 - (a) another provision of this Act or a regulation under this Act;

Example for paragraph (a)—

A biosecurity emergency order prohibiting a person from dealing with biosecurity matter that is restricted animal material may stop a person from feeding the material to a ruminant even

if the ruminant were to be fed the material in a way mentioned in section 46(5).

- (b) biosecurity zone regulatory provisions;
 - (c) a movement control order;
 - (d) a code of practice.
- (5) A permit or other authorisation given under an Act, other than a permit or authorisation given for the purpose of responding to a biosecurity event, is of no effect while a biosecurity emergency order is in force, to the extent it is inconsistent with the biosecurity emergency order.

Example for subsection (5)—

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

Division 3 Enforcement of biosecurity emergency order

116 Compliance with biosecurity emergency order

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

Maximum penalty—2000 penalty units or 2 years imprisonment.

- (2) A person does not commit an offence against subsection (1) if the person—
- (a) did not know, and ought not reasonably to have known, of the existence of the order; or
 - (b) has a reasonable excuse for not complying with the order.

117 Power to stop vehicles

- (1) An inspector who is also a police officer, or an authorised transport officer, may require the person in control of a vehicle to stop the vehicle at a biosecurity emergency checkpoint, having regard to the objective criteria applying for the stopping and checking of vehicles at the checkpoint.
- (2) An inspector who is also a police officer may require the person in control of a vehicle to stop the vehicle other than at a biosecurity emergency checkpoint if the inspector suspects on reasonable grounds that—
 - (a) the vehicle may be being moved in contravention of a biosecurity emergency order; or
 - (b) the vehicle may be being used to carry biosecurity matter or a carrier in contravention of a biosecurity emergency order.
- (3) A requirement may be made under subsection (1) or (2) in a way prescribed under a regulation.

Example—

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

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

Maximum penalty—

- (a) for a failure to stop a vehicle at a biosecurity emergency checkpoint—500 penalty units; or
 - (b) for a failure to stop a vehicle other than at a biosecurity emergency checkpoint—100 penalty units.
- (5) A regulation may impose restrictions on the stopping of vehicles by authorised transport officers.

118 Inspection of stopped vehicle

- (1) This section applies to a vehicle that has been stopped under this division by—
 - (a) an inspector who is also a police officer; or
 - (b) an authorised transport officer.
- (2) An inspector, or an authorised person acting under the direction of an inspector, may inspect the vehicle to the extent necessary to ensure the vehicle is not carrying biosecurity matter or a carrier in contravention of the biosecurity emergency order.
- (3) Also, the inspector or authorised person acting under the direction of an inspector may—
 - (a) take reasonable steps, including by giving directions to any person, to restrict biosecurity matter or a carrier to within an isolated area; or
 - (b) give a direction to a person to do any of the following—
 - (i) stay within an isolated area identified by the inspector or authorised person, or at another stated place, as directed by the inspector or authorised person;
 - (ii) take biosecurity matter or a carrier to a stated place;
 - (iii) answer a question, or produce a biosecurity emergency order permit, if giving the direction to answer the question or produce the permit is reasonably necessary to help the inspector or authorised person to assess whether the biosecurity emergency order is being effectively enforced and whether any further emergency action needs to be taken in relation to the biosecurity emergency the subject of the order;
 - (iv) move, or not move, a vehicle, biosecurity matter or a carrier, into, out of, within or around a stated place.

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

Maximum penalty—1000 penalty units or 1 year's imprisonment.

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

- (a) inspected the vehicle as provided for in subsection (2); and
(b) given approval for the vehicle to leave the place where it was stopped.

Maximum penalty—1000 penalty units or 1 year's imprisonment.

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

Note—

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

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

- (8) In this section—

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

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

- (1) Without limiting the powers of an inspector otherwise provided for in this Act, an inspector, or an authorised person acting under the direction of an inspector, may, in relation to

any place within a biosecurity emergency area for a biosecurity emergency order, and to the extent reasonably necessary for managing the biosecurity emergency the subject of the order, do any of the following—

- (a) enter and re-enter the place with or without consent;
- (b) if the place is private property, inspect any vehicle at the place;
- (c) establish an area on or over the place to isolate biosecurity matter or a carrier;
- (d) give a direction restricting a person, biosecurity matter or a carrier to within an isolated area established under paragraph (c), or direct a person to stay at or in another stated place;
- (e) direct a person to move biosecurity matter or a carrier from the place to another place;
- (f) direct a person at the place to answer questions about the place or anything that has happened at the place;
- (g) demolish, or direct a person at the place to demolish, any structure or other property at the place, including, for example, an outbuilding, cage, pen and yard;
- (h) clean or disinfect, or direct a person at the place to clean or disinfect, the place or any structure or thing at the place;
- (i) destroy, dispose of, vaccinate or treat, or direct a person at the place to destroy, dispose of, vaccinate or treat, biosecurity matter or a carrier at the place;
- (j) direct the movement of a person, biosecurity matter, a carrier or a vehicle into, out of, within or around the place;
- (k) remove biosecurity matter or a carrier from the place;
- (l) make, or direct a person at the place to make, equipment at the place inoperable;

Example—

dismantle the equipment or take away a component of the equipment

- (m) direct the occupier of the place to give the inspector or authorised person, or another authorised person, any information or document;
 - (n) take any other action reasonably necessary for managing the biosecurity emergency.
- (2) Subsection (1) does not authorise the entry of a residence.
 - (3) An inspector or authorised person may exercise a power under subsection (1) only to the extent reasonably necessary for, and only for the purposes of, fulfilling the purpose and ensuring the effectiveness of the biosecurity emergency order.
 - (4) Subject to subsection (3), an inspector or authorised person may exercise a power under subsection (1) with the help, and using the force, that is necessary and reasonable in the circumstances.
 - (5) A person to whom a direction is given under subsection (1) must comply with the direction unless the person has a reasonable excuse.
- Maximum penalty—1000 penalty units or 1 year's imprisonment.
- (6) For this section, a place is private property if it is not a place—
 - (a) that is open to, or used by, the public; or
 - (b) that the public is entitled to use.
 - (7) A structure or other property may be demolished, or be directed to be demolished, under subsection (1)(g) only with the written approval of the chief executive.
 - (8) The *Sustainable Planning Act 2009*, section 575 does not apply to a person who demolishes a building under subsection (1)(g).
 - (9) This section applies to an inspector who is also a police officer, and where appointment as an inspector is made by the

chief executive under chapter 10, part 1, division 3, for the purposes of a biosecurity emergency order, only to the extent provided for in the notice providing for the appointment.

120 Requirement to answer question or give information

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

Note—

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

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

Note—

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

- (3) Subsections (4) and (5) apply in relation to any of the following (***primary evidence***)—
 - (a) any required document for an individual produced or given by an individual to an inspector under this part in response to a direction given by an inspector under this part;
 - (b) the fact of the production or giving as mentioned in paragraph (a).
- (4) The following is not admissible in evidence against an individual in any civil or criminal proceeding—
 - (a) primary evidence;
 - (b) any document, information or other thing obtained as a direct or indirect result of primary evidence (***derived evidence***).

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

- (6) In this section—

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

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

Division 4 Biosecurity emergency order permits

121 Biosecurity emergency order permit

- (1) This section applies to a person who is subject to the operation of a biosecurity emergency order.
- (2) The person may apply to an inspector for a permit (a *biosecurity emergency order permit*) authorising the person to perform an activity, or not to perform an activity, other than in compliance with the biosecurity emergency order.
- (3) The inspector may grant the biosecurity emergency order permit only if the inspector is satisfied in the circumstances that granting the permit—
- (a) will not exacerbate the adverse effects or the possible adverse effects of the biosecurity emergency the subject of the biosecurity emergency order; and
 - (b) will not otherwise be detrimental to the effectiveness of the biosecurity emergency order.

Example of circumstance in which a permit might be granted—

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

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- (4) A biosecurity emergency order permit may be granted on conditions the inspector considers necessary to ensure the matters stated in subsection (3).
 - (5) A person who does not comply with a biosecurity emergency order does not commit the offence of failing to comply with the order if the noncompliance is authorised by a biosecurity emergency order permit.
 - (6) A biosecurity emergency order permit may authorise a person to perform or not to perform—
 - (a) a stated activity; or
 - (b) activities of a stated description.
 - (7) An inspector may at any time, by notice given to the holder of a biosecurity emergency order permit, to preserve the intended purpose and effect of the biosecurity emergency order—
 - (a) change the conditions of the permit; or
 - (b) cancel the permit.
 - (8) An inspector who refuses to grant a biosecurity emergency order permit to a person, grants a biosecurity emergency order permit to a person on conditions, amends the conditions of a person's biosecurity emergency order permit or cancels a person's biosecurity emergency order permit must give the person an information notice for the decision to refuse to grant, grant on conditions, amend or cancel.
 - (9) This section does not apply to an inspector who is also a police officer.

122 Offences relating to biosecurity emergency order permits

- (1) A person who holds a biosecurity emergency order permit must comply with the conditions of the permit unless the person has a reasonable excuse.

Maximum penalty—1000 penalty units or 1 year's imprisonment.

- (2) A person who holds a biosecurity emergency order permit must, while acting, or purportedly acting, under the authority of the permit, carry the permit with the person unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (3) A person who holds a biosecurity emergency order permit must, if asked to do so by an authorised officer, and unless the person has a reasonable excuse, produce it to the authorised officer for the authorised officer's inspection—

- (a) if the person is at the time of the request acting, or purportedly acting, under the authority of the permit—immediately; or
- (b) otherwise—within the shortest practicable time after the request is made.

Maximum penalty—100 penalty units.

Division 5 Reports about biosecurity emergencies

123 Tabling of report

- (1) The Minister must table in the Legislative Assembly a report about a biosecurity emergency the subject of a biosecurity emergency order within 6 months after the biosecurity emergency ends.
- (2) The report about the biosecurity emergency must state the following—
- (a) the subject matter, nature and extent of the biosecurity emergency;
- (b) when and why the biosecurity emergency order was made, when it took effect and when it expired or was revoked;
- (c) the biosecurity emergency area for the biosecurity emergency order;

- (d) the duties and obligations, for the movement of biosecurity matter or carriers, imposed on—
 - (i) occupiers of any place within the biosecurity emergency area or a part of the area; and
 - (ii) other persons in or in the vicinity of the biosecurity emergency area or a part of the area;
- (e) any conditions relating to the conduct of the response to the biosecurity emergency;
- (f) any other matter the Minister considers appropriate.

Part 2 Movement control orders

124 Chief executive may make movement control order

- (1) The chief executive may, by notice signed by the chief executive and published on the department's website, make an order (a ***movement control order***) for managing, reducing or eradicating stated biosecurity matter (***controlled biosecurity matter*** for the movement control order) by prohibiting or restricting the movement of biosecurity matter, including controlled biosecurity matter, or of a carrier.
- (2) A movement control order may be directed at managing, reducing or eradicating controlled biosecurity matter over a limited period rather than over an extended or indefinite period.

Examples—

A movement control order may be directed at putting in place measures that are to apply in relation to biosecurity matter until biosecurity zone regulatory provisions are made in relation to the biosecurity matter. Also, a movement control order could be a response to the existence of biosecurity matter that is limited in its extent and is able to be eradicated over a short period.

- (3) The chief executive may make a movement control order only if the chief executive is satisfied on reasonable grounds that the controlled biosecurity matter under the order poses a

biosecurity risk of enough seriousness, and that the risk is high enough, to justify the making of the order.

- (4) A movement control order may exclude stated persons, or persons of a particular class, from its operation.

Example—

A movement control order might exclude from its operation a person who has entered into a compliance agreement with the chief executive in relation to controlled biosecurity matter or who is undertaking an industry approved quality assurance program for managing controlled biosecurity matter.

- (5) As soon as practicable after making a movement control order, the chief executive must—

- (a) publish in the gazette a notice of the making of the movement control order, the order's subject matter generally and the places where a copy of the order may be obtained; and
- (b) take all reasonable steps to ensure that persons likely to be directly affected by the order are made aware of the making of the order, including, for example, by some or all of the following—
 - (i) advertising in newspapers, on radio and on television;
 - (ii) electronically using emails or text messages;

Example—

SMS messaging in an area to which the movement control order relates

- (iii) automated telephoning.
- (6) A movement control order is not invalid only because of a failure of the chief executive to comply with subsection (5).
- (7) A movement control order may be preventative in nature in relation to controlled biosecurity matter even if, when the order is made, there is no evidence of the controlled biosecurity matter in an area the subject of the order.

Example—

If a disease is evident in a place outside the State but not within the State, a movement control order could nevertheless be directed at stopping the disease from entering the State.

- (8) Unless it is sooner revoked, a movement control order stays in force until 3 months have elapsed after the order is made.
- (9) Without limiting the chief executive's power to revoke a movement control order—
 - (a) if a movement control order is inconsistent with biorecurey zone regulatory provisions, the biorecurey zone regulatory provisions prevail to the extent of the inconsistency; and
 - (b) a regulation may revoke a movement control order.
- (10) To remove any doubt, it is declared that subsections (2) to (5) also apply for the amendment or revocation of a movement control order, to the greatest practicable extent.
- (11) In this section—
 - manage***, biorecurey matter, includes—
 - (a) prevent its transmission or spread; and
 - (b) address the biorecurey risk posed by it.
 - restrict*** includes allow on conditions.

125 Matters for inclusion in movement control order

- (1) Without limiting the matters that may be included in a movement control order, a movement control order must include details of each of the following—
 - (a) why the movement control order is being made;
 - (b) what the movement control order is intended to achieve;
 - (c) the areas to which the movement control order relates;
 - (d) the controlled biorecurey matter for the order, and any other biorecurey matter to which the movement control order relates;

- (e) any carrier, including a carrier of a particular type, to which the movement control order relates;
 - (f) the prohibitions and restrictions that must be complied with by persons to whom the order applies.
- (2) Without limiting the ways in which an area the subject of a movement control order may be identified, the area may be identified by reference to any of the following—
 - (a) an area outlined on a map;
 - (b) coordinates located using global positioning systems;
 - (c) real property descriptions;
 - (d) local government area boundaries or boundaries of divisions within a local government's area;
 - (e) electoral boundaries applying for State or Commonwealth elections;
 - (f) geographical features, including, for example, roads and rivers.
- (3) Without limiting how a movement control order may prohibit or restrict the movement of biosecurity matter, including controlled biosecurity matter, or of a carrier, a movement control order may—
 - (a) prohibit or restrict the movement of biosecurity matter or a carrier—
 - (i) into or out of the State; or
 - (ii) into, out of or within a stated area of the State; or
 - (iii) into an area adjacent to a stated area of the State, as mentioned in subparagraph (ii), whether or not the movement is out of the stated area; or
 - (iv) out of an area adjacent to a stated area of the State, as mentioned in subparagraph (ii), whether or not the movement is into the stated area; or
 - (b) impose conditions that must be complied with for movement of a type mentioned in paragraph (a); or

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- (c) give directions reasonably necessary or desirable to manage, reduce or eradicate controlled biosecurity matter, including directions regulating—
 - (i) the taking to or removal from a stated area, or the isolating or impounding in a stated area, of any stated biosecurity matter or carrier, including any fodder, grain, gravel, soil, designated animal, machinery and vehicle; or
 - (ii) what a person may or may not do on land within a stated area; or
 - (d) impose requirements on a person (the *relevant person*)—
 - (i) to inspect or test any biosecurity matter or a carrier; or
 - (ii) to treat or destroy biosecurity matter (including controlled biosecurity matter and biosecurity matter in water) or a carrier; or
 - (iii) to clean or disinfect any place, including any structure or thing at a place; or
 - (iv) for any inspection, testing, treatment, destruction, disposal, transportation, decontamination, cleaning, disinfection or vaccination required under the order to be performed—
 - (A) by, or under the direction of, an authorised officer; and
 - (B) at the expense of the relevant person; or
 - (v) to notify an inspector about—
 - (A) the presence of controlled biosecurity matter; or
 - (B) if the person reasonably suspects the presence of controlled biosecurity matter—the suspected presence of the biosecurity matter.

126 Compliance with movement control order

- (1) A person to whom a movement control order applies must comply with the order.

Maximum penalty—2000 penalty units or 1 year's imprisonment.

- (2) A person who fails to comply with subsection (1) does not commit an offence against the subsection if the person—

- (a) did not know, and ought not reasonably to have known, of the existence of the order; or
(b) has a reasonable excuse for not complying with the order.

Note—

See also section 132(6).

127 Effect of movement control order

A permit or other authorisation given under an Act other than for the purpose of managing, reducing or eradicating biosecurity matter is of no effect, while a movement control order is in force, to the extent it is inconsistent with the movement control order.

Example—

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

Part 3 Biosecurity zone regulatory provisions

128 Regulation may include provisions for biosecurity zones

- (1) A regulation may include provisions (*biosecurity zone regulatory provisions*) that—