



New South Wales

Biosecurity Bill 2014

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows:

- (a) to provide a framework for the prevention, elimination and minimisation of biosecurity risks posed by biosecurity matter, dealing with biosecurity matter, carriers and potential carriers, and other activities that involve biosecurity matter, carriers or potential carriers,
- (b) to promote biosecurity as a shared responsibility between government, industry and communities,
- (c) to provide a framework for the timely and effective management of the following:
 - (i) pests, diseases, contaminants and other biosecurity matter that is economically significant for primary production industries,
 - (ii) threats to terrestrial and aquatic environments arising from pests, diseases, contaminants and other biosecurity matter,
 - (iii) public health and safety risks arising from contaminants, non-indigenous animals, bees, weeds and other biosecurity matter known to contribute to human health problems,
 - (iv) pests, diseases, contaminants and other biosecurity matter that may have an adverse effect on community activities and infrastructure,
- (d) to provide a framework for risk-based decision-making in relation to biosecurity,
- (e) to give effect to intergovernmental biosecurity agreements to which the State is a party,
- (f) to provide the means by which biosecurity requirements in other jurisdictions can be met, so as to maintain market access for industry.

Outline of provisions

Part 1 Preliminary

Part 1 deals with preliminary matters, including the following:

- (a) the name of the proposed Act,
- (b) the commencement of the proposed Act on a proclaimed day or days,
- (c) the objects of the proposed Act, which are the same as those of this Bill,
- (d) that the proposed Act binds the Crown and has extraterritorial application,
- (e) that the proposed Act does not give rise to or affect any civil cause of action.

Part 2 Interpretation, key concepts and principles

Division 1 (Interpretation) contains provisions that:

- (a) define terms used in the proposed Act, and
- (b) explain the way in which biosecurity matter is referred to in the proposed Act, and
- (c) provide that notes included in the proposed Act do not form part of it.

Division 2 (Key concepts) defines key concepts used in the proposed Act including the following:

- (a) **biosecurity matter** which is defined to mean any living thing (other than a human), any part of an animal, plant or living thing (other than a human), any produce of a living thing (other than a human), a disease, a prion, a contaminant or a disease agent that can cause disease in a living thing (other than a human) or that can cause disease in a human via transmission from a non-human host to a human,
- (b) **carrier** which is defined to mean any thing (whether alive, dead or inanimate, and including a human) that has, or is capable of having, any biosecurity matter on it, attached to it or contained in it,
- (c) **deal** with biosecurity matter or a carrier, which is defined to include keep, possess, produce, manufacture, supply, import, acquire, buy, sell, dispose of, move, use, breed, propagate, grow, raise, feed, culture, experiment with or display biosecurity matter or a carrier or do anything prescribed by the regulations as dealing,
- (d) **biosecurity impact** which is defined to mean an adverse effect on the economy, the environment or the community that arises, or has the potential to arise, from biosecurity matter, a carrier or dealing with biosecurity matter or a carrier, being an adverse effect that is related to one of the matters listed in the definition,
- (e) **biosecurity risk** which is defined to mean the risk of a biosecurity impact occurring.

Division 3 (Principles that apply to biosecurity duties) sets out the following principles, which apply to all biosecurity duties that persons have under the proposed Act:

- (a) that a biosecurity duty cannot be transferred to another person,
- (b) that a person can have more than one biosecurity duty,
- (c) that more than one person can concurrently have the same biosecurity duty (and in such a case each duty holder must comply with that duty and retains responsibility for it),
- (d) that a duty imposed on a person to prevent, eliminate or minimise a biosecurity risk so far as is reasonably practicable is a duty to prevent or eliminate a biosecurity risk, so far as is reasonably practicable and, if it is not reasonably practicable to prevent or eliminate the biosecurity risk, to minimise the biosecurity risk so far as is reasonably practicable.

Part 3 General biosecurity duty

Part 3 contains provisions that:

- (a) set out the general biosecurity duty, which is that any person who deals with biosecurity matter or a carrier, and who knows, or ought reasonably to know, the biosecurity risk posed or likely to be posed by the biosecurity matter, carrier or dealing, has a biosecurity duty to ensure that, so far as is reasonably practicable, the biosecurity risk that is posed or likely to be posed by the biosecurity matter, carrier or dealing is prevented, eliminated or minimised, and
- (b) make it an offence for a person to fail to discharge the person's biosecurity duty (and provides for a person to be guilty of a continuing offence if the breach continues), and
- (c) provide for the regulations to require persons who deal with biosecurity matter or carriers to take specified actions to prevent, eliminate or minimise a biosecurity risk posed or likely to be posed by the biosecurity matter, carrier or dealing (called *mandatory measures* in the proposed Part), and
- (d) make it an offence for a person who deals with biosecurity matter or a carrier to contravene any such mandatory measures (which can also be a continuing offence), and
- (e) refer to Schedule 1, which contains further provisions relating to those duties that apply specifically to weeds.

Part 4 Prohibited matter and related biosecurity duties

Division 1 (Preliminary) provides that:

- (a) biosecurity matter described in Schedule 2 to the proposed Act is prohibited matter, and
- (b) biosecurity matter described in Part 1 of Schedule 2 is prohibited matter throughout the State and biosecurity matter described in Part 2 of Schedule 2 is prohibited in that part of the State specified in the Part, and
- (c) the regulations may amend Schedule 2.

Division 2 (Offence of dealing with prohibited matter) contains provisions that:

- (a) make it an offence to deal with biosecurity matter that is prohibited matter (throughout the whole State or in the part of the State that it is prohibited matter), and
- (b) establish a defence of unknowing possession of biosecurity matter (if the person did not know, and could not reasonably be expected to have known, that the matter was in the person's possession, care, custody or control).

Division 3 (Duty to notify presence of prohibited matter) contains provisions that:

- (a) create a biosecurity duty to immediately notify any prohibited matter event that a person becomes aware of or suspects has occurred, is occurring or is about to occur (a *prohibited matter event* is defined as the presence of biosecurity matter in a part of the State in which it is prohibited matter or the introduction of biosecurity matter into a part of the State in which it is prohibited matter), where the duty arises if the person is:
 - (i) the owner, occupier or person in charge of, or who has the care, custody or control of, premises, a carrier or other thing in relation to which the prohibited matter is present or suspected of being present, or
 - (ii) becomes aware of, or suspects, the prohibited matter event as a result of any consultation or other work carried out in relation to premises, a carrier or other thing in the person's professional capacity, or
 - (iii) a person of a class prescribed by the regulations, and
- (b) create an offence of failing to discharge that biosecurity duty, and
- (c) establish a defence for failure to notify a prohibited matter event that was widely and publicly known, and

- (d) provide protection against self-incrimination for information required to be provided to discharge the biosecurity duty, and
- (e) enable the regulations to make further provision for notifications.

Division 4 (Duty to prevent, eliminate or minimise risk posed by prohibited matter) contains provisions that:

- (a) create a biosecurity duty to prevent, eliminate or minimise risk posed by prohibited matter which is imposed on a person who:
 - (i) becomes aware of, or suspects, the presence of biosecurity matter in a part of the State in which it is prohibited matter and who is the owner, occupier or person in charge of, or who has the care, custody or control of, premises, a carrier or other thing in relation to which the prohibited matter is present or suspected of being present, or
 - (ii) becomes aware of, or suspects, the presence of prohibited matter as a result of any consultation or other work carried out in relation to premises, a carrier or other thing in the person's professional capacity, or
 - (iii) is a person of a class prescribed by the regulations, and
- (b) provide that failure to discharge that biosecurity duty is an offence.

Division 5 (Duty to notify biosecurity events) contains provisions that:

- (a) create a biosecurity duty to notify a biosecurity event if a person becomes aware of or suspects that a biosecurity event has occurred, is occurring or is about to occur (*biosecurity event* is defined as something that has occurred, is occurring or is likely to occur and which has had, is having, or is likely to have, a significant biosecurity impact and includes anything declared by the regulations to be a biosecurity event), which is imposed on a person who:
 - (i) is the owner, occupier or person in charge of, or who has the care, custody or control of, premises, a carrier or other thing in relation to which the biosecurity event has occurred, is occurring or is about to occur, or
 - (ii) becomes aware of, or suspects, the biosecurity event as a result of any consultation or other work carried out in relation to premises, a carrier or other thing in the person's professional capacity, or
 - (iii) is a person of a class prescribed by the regulations, and
- (b) provide that failure to discharge that biosecurity duty is an offence, and
- (c) establish a defence for failure to notify a biosecurity event that was widely and publicly known, and
- (d) provide protection against self-incrimination for information required to be provided to discharge the biosecurity duty, and
- (e) enable the regulations to make further provision for notifications.

Part 5 Emergency orders

Division 1 (Emergency orders) contains provisions that:

- (a) give the Secretary of the Department of Trade and Investment, Regional Infrastructure and Services the power to make an order in writing (an *emergency order*) that declares a biosecurity emergency and establishes measures to respond to that biosecurity emergency, in circumstances where the Secretary is satisfied that, or reasonably suspects that, there is a current or imminent biosecurity risk that may have a significant biosecurity impact, and
- (b) provide that the principal objects of an emergency order are to isolate an emergency zone or biosecurity matter, to prevent the spread of the biosecurity matter and to eradicate the biosecurity matter (if practicable), and
- (c) provide for the content of emergency orders and the giving of notice of them, and
- (d) provide that emergency orders operate for no longer than 6 months (but can be extended).

Division 2 (Matters for which emergency order may provide) sets out the matters for which emergency orders may provide, as follows:

- (a) by defining the concept of an *emergency zone* which is the principal area or areas in relation to which, in the opinion of the Secretary, measures are required to be implemented under the emergency order,
- (b) by defining the concept of *emergency measures* which are the measures that the Secretary establishes under an emergency order to respond to a biosecurity emergency,
- (c) by giving examples of such emergency measures that can be specified in an emergency order,
- (d) by specifying the special powers for which those emergency measures may provide.

Division 3 (Limitations that apply to emergency order) imposes the following limitations on emergency orders:

- (a) an emergency order cannot require a person to undergo any treatment measure, other than an external treatment measure,
- (b) an emergency order cannot require a person to provide samples of the person's blood, hair, saliva or any other body part or body fluid,
- (c) that a requirement to submit to an inspection is a requirement to submit to a visual inspection including of clothes and shoes and to shake or otherwise move a person's hair,
- (d) an emergency order cannot require or authorise the destruction of a thing unless the Secretary is of the opinion that it is reasonably necessary to prevent, eliminate or minimise a significant biosecurity impact,
- (e) that persons directly affected by a destruction requirement are generally required to be advised of the requirement.

Division 4 (Effect of order) deals with the effect of an emergency order by providing that:

- (a) an emergency order prevails, to the extent of any inconsistency, over the regulations or any biosecurity registration, permit (other than an emergency permit), control order or any other instrument or exemption made or given under the Act, and
- (b) it is an offence to contravene an emergency order (which may be a continuing offence), and
- (c) if there is a failure to comply with an emergency order, the Secretary may authorise the required actions to be taken by any person and recover the costs of doing so.

Division 5 (General) contains provisions:

- (a) dealing with the amendment or revocation of emergency orders, and
- (b) that prevent the making of any interim injunction, order or relief that prevents, restricts or defers any emergency order or anything authorised or required by an emergency order.

Part 6 Control orders

Division 1 (Control orders) contains provisions that:

- (a) give the Secretary the power to make a control order, which establishes one or more control zones and establishes measures, in connection with the control zone, to prevent, eliminate, minimise or manage a biosecurity risk, but only if the Secretary reasonably believes that the order is necessary to prevent, eliminate, minimise or manage the biosecurity risk, and
- (b) provide that the principal object of a control order is to eradicate biosecurity matter that poses or is likely to pose a biosecurity risk, and
- (c) specify the contents of control orders, and
- (d) provide for the giving of notice of control orders, and
- (e) provide for their duration (for a maximum of 5 years) and their extension.

Division 2 (Matters for which control order may provide) specifies the matters for which control orders may provide, and related concepts, as follows:

- (a) by defining a *control zone* as the principal area or areas in relation to which, in the opinion of the Secretary, measures are required to be implemented,
- (b) by defining the *control measures* as the measures that the Secretary establishes under a control order to prevent, eliminate, minimise or manage the biosecurity risk to which an order relates,
- (c) by providing examples of control measures that may be contained in a control order.

Division 3 (Limitations that apply to control order) imposes the following limitations on control orders:

- (a) a control order cannot prohibit, regulate or control the movement of a person,
- (b) a control order cannot require treatment measures to be carried out in relation to a person,
- (c) a control order cannot require a person to provide samples of the person's blood, hair, saliva or any other body part or body fluid,
- (d) a control order cannot authorise the destruction of a thing except in certain circumstances,
- (e) consultation is required in relation to regulations that deal with certain aspects of national parks and wildlife, native vegetation, threatened species and protected heritage items.

Division 4 (Effect of control order) deals with the effect of control orders by:

- (a) making it an offence to contravene a control order (which can be a continuing offence), and
- (b) providing that the Secretary can authorise any required actions to be taken by any person and recover costs if there is a failure to comply with a control order.

Division 5 (General) provides for the amendment or revocation of control orders.

Part 7 Biosecurity zones

Division 1 (Biosecurity zones) contains provisions that:

- (a) provide that the regulations may establish one or more biosecurity zones for the purposes of preventing, eliminating, minimising or managing a biosecurity risk or biosecurity impact, and
- (b) list the matters that can be specified in biosecurity zone regulations.

Division 2 (Matters for which regulations may provide) specifies the matters for which biosecurity zone regulations may provide as follows:

- (a) by describing what a biosecurity zone may be,
- (b) by describing what the regulatory measures (that is, the measures to be implemented for the purpose of preventing, eliminating, minimising or managing a biosecurity risk or biosecurity impact) may be,
- (c) by providing examples of regulatory measures that can be included in a biosecurity zone regulation.

Division 3 (Limitations on regulation-making power) sets out the following limitations on the regulation-making power in relation to biosecurity zones:

- (a) a regulation cannot prohibit, regulate or control the movement of a person or require treatment measures to be carried out in relation to any person,
- (b) a regulation cannot require a person to provide samples of the person's blood, hair, saliva or any other body part or body fluid,
- (c) a regulation cannot require or authorise the destruction of a thing except in limited circumstances,
- (d) consultation is required in relation to regulations that deal with certain aspects of national parks and wildlife, native vegetation, threatened species and protected heritage items.

Division 4 (Effect of biosecurity zone) specifies the effect of the biosecurity zone regulation namely:

- (a) that a person who contravenes any biosecurity zone regulation is guilty of an offence (which can be a continuing offence), and
- (b) that the Secretary can authorise required actions under a biosecurity zone regulation and recover the costs.

Part 8 Powers of authorised officers

Division 1 (Preliminary) sets out:

- (a) the purposes for which functions under the proposed Part may be exercised, including the purpose of investigating, monitoring and enforcing compliance with the requirements imposed by or under the proposed Act, and
- (b) when an authorised officer may exercise a function in the case of an emergency.

Division 2 (Information gathering powers) sets out the main information gathering powers of authorised officers, including the following:

- (a) the power to require information and records,
- (b) the power to require answers to questions,
- (c) the power to record evidence,
- (d) the power to demand names and addresses,
- (e) the additional power to require information in an emergency.

Division 3 (Entry to premises) provides for:

- (a) the powers of authorised officers to enter premises, and
- (b) the issue of search warrants, and
- (c) a power to require the owner or occupier of premises to provide assistance.

Division 4 (Investigation and risk management powers) provides for the exercise of investigation and risk management powers including:

- (a) that powers that can be exercised on premises, and
- (b) that an authorised officer can require the owner or occupier of premises or any person in or on the premises to provide reasonable assistance, and
- (c) for the recovery of fees for certain action taken.

Division 5 (Limitations on powers) sets out the following limitations on the exercise of powers of authorised officers:

- (a) limitations on the detention and treatment of persons,
- (b) limitations on the destruction of things,
- (c) that persons directly affected by destruction are generally to be advised of the proposed destruction,
- (d) the interaction of powers with restrictions imposed by Acts about national parks and wildlife, native vegetation, threatened species and the protection of heritage items.

Division 6 (General) makes general provisions in relation to the powers of authorised officers including:

- (a) making it an offence to contravene a requirement made by an authorised officer (which may be a continuing offence), and
- (b) providing for a defence of reasonable excuse to such a contravention, which applies in limited circumstances, and
- (c) requiring an authorised officer entering or searching premises, or doing anything else on premises, to do as little damage as possible, and

- (d) providing that the Secretary must compensate persons for the damage caused by an authorised officer in certain circumstances, and
- (e) providing for the revocation or variation of notices under the proposed Part.

Part 9 Biosecurity directions

Division 1 (Preliminary) provides:

- (a) that a power conferred by the proposed Part to give a biosecurity direction may be exercised whether or not a power of entry has been exercised, and
- (b) for when an authorised officer can exercise functions in the case of an emergency.

Division 2 (Biosecurity directions) provides that an authorised officer can give a biosecurity direction which is either:

- (a) a general biosecurity direction, which is a direction that applies to the public generally or to a specified section of the public such as persons engaged in a specific activity or who frequent particular premises, or
- (b) an individual biosecurity direction, which is a direction that applies to particular person.

The proposed Division also provides for the revocation or variation of biosecurity directions.

Division 3 (General biosecurity directions) makes provision in relation to general biosecurity directions, in particular:

- (a) by providing that an authorised officer may give a general biosecurity direction if the officer reasonably believes it is necessary to do so to prevent, eliminate or minimise a biosecurity risk or to prevent, manage or control a biosecurity impact that has occurred, is occurring or is likely to occur or to enforce, administer or execute the proposed Act or an instrument made under the proposed Act, and
- (b) by specifying how a general biosecurity direction can be given, and
- (c) by setting out the possible contents of a general biosecurity direction, including one given in the case of an emergency.

Division 4 (Individual biosecurity directions) provides for the giving of individual biosecurity directions including:

- (a) the circumstances in which an individual biosecurity direction can be given, and
- (b) how an individual biosecurity direction can be given, and
- (c) examples of individual biosecurity directions, and
- (d) special emergency powers, and
- (e) the fee for individual biosecurity directions, and
- (f) providing for the taking of required actions and the recovery of fees.

Division 5 (Limitations on powers) sets out the following limitations on biosecurity directions:

- (a) limitations on the detention and treatment of persons in a particular way,
- (b) what is involved in requiring a person to submit to an inspection,
- (c) limitations on the destruction of things,
- (d) limitations on the exercise of powers that conflict with other legislation about national parks and wildlife, native vegetation, threatened species and the protection of heritage items.

Division 6 (General) makes general provisions in relation to biosecurity directions including:

- (a) by making it an offence to contravene a biosecurity direction (which may be a continuing offence), and
- (b) by creating a defence if there is a reasonable excuse for the contravention, and
- (c) by providing for appeals to the Land and Environment Court against a decision to give or amend a biosecurity direction, and

- (d) by providing that prior notice of biosecurity directions is not required.

Part 10 Biosecurity undertakings

Part 10 provides for the following:

- (a) the making and acceptance of biosecurity undertakings, which are undertakings given by a person if the person has contravened or an authorised officer suspects that the person has contravened or is likely to contravene a requirement imposed by or under the proposed Act, in which the person agrees to implement measures to remedy or prevent the contravention,
- (b) the contents of a biosecurity undertaking,
- (c) when a biosecurity undertaking takes effect,
- (d) that contravening a biosecurity undertaking is an offence (which may be a continuing offence),
- (e) the fee for acceptance of a biosecurity undertaking,
- (f) that an authorised officer can take or authorise the required actions under a biosecurity undertaking and that the costs of doing so can be recovered,
- (g) that the Land and Environment Court can make orders requiring compliance with a biosecurity undertaking,
- (h) the withdrawal or variation of biosecurity undertakings,
- (i) that enforcement action under the proposed Act is not prevented by an undertaking.

Part 11 Prohibited dealings and registrable dealings

Division 1 (Prohibited dealings) provides that:

- (a) a dealing with biosecurity matter described in Schedule 3 to the proposed Act is a prohibited dealing, and
- (b) it is an offence to engage in a prohibited dealing.

Division 2 (Dealings for which biosecurity registration is required) provides that:

- (a) each of the dealings described in Schedule 4 to the proposed Act is a registrable dealing, and
- (b) it is an offence to engage in a registrable dealing unless a person is a registered entity and the dealing is authorised by the person's biosecurity registration, and
- (c) a defence is available for employees and agents who engage in registrable dealings without registration.

Part 12 Biosecurity registration

Division 1 (Preliminary) contains provisions that:

- (a) give the Secretary power to authorise a person to engage in a registrable dealing by granting biosecurity registration, and
- (b) specify the meaning of a registered entity, and
- (c) provide for when the Secretary may exercise functions in the case of an emergency.

Division 2 (Application for biosecurity registration) provides for:

- (a) the making of applications for biosecurity registration, and
- (b) the grant or refusal of an application for biosecurity registration, and
- (c) the duration of biosecurity registration, and
- (d) the variation of biosecurity registration.

Division 3 (Renewal of biosecurity registration) provides for:

- (a) the making of applications for renewal of biosecurity registration in respect of a registrable dealing, and
- (b) the grant or refusal of renewal applications.

Division 4 (Conditions of biosecurity registration) provides that:

- (a) biosecurity registration is subject to any conditions prescribed by the regulations and any other conditions imposed by the Secretary at the time of the grant or renewal of biosecurity registration or at any other time by variation, and
- (b) those conditions may include conditions that require compliance with specified standards, that require works or measures, that require a person to have in place an alternative arrangement or that require insurance cover, biosecurity audits or financial assurances, and
- (c) conditions can provide that the authorisation conferred by biosecurity registration does not take effect until the end of a specified period or until the happening of a specified event.

Division 5 (Suspension or cancellation of biosecurity registration) contains provisions for the suspension or cancellation of biosecurity registration that:

- (a) set out the grounds for suspension or cancellation of biosecurity registration, which include a contravention by the registered entity of the proposed Act, and
- (b) set out the procedure for suspension, which includes the registered entity being given an opportunity to make submissions about suspension, and
- (c) set out the procedure for cancellation, which includes the registered entity being given an opportunity to make submissions about cancellation, and
- (d) specify the effect of suspension or cancellation on conditions.

Division 6 (Miscellaneous) provides:

- (a) that a registered entity who contravenes a condition of biosecurity registration is guilty of an offence, and
- (b) that biosecurity registration is not transferable, and
- (c) for the surrender of biosecurity registration, and
- (d) for the making of appeals to the Land and Environment Court against certain decisions about biosecurity registration.

Part 13 Biosecurity certificates

Division 1 (Biosecurity certificates) provides:

- (a) that a biosecurity certifier may issue a biosecurity certificate, and
- (b) that a biosecurity certificate is a certificate that relates to any specified biosecurity matter or other thing and that certifies certain matters about the biosecurity matter or thing.

Division 2 (Interstate biosecurity certificates) contains provisions that:

- (a) provide for the recognition of interstate biosecurity certificates, and
- (b) specify what an interstate biosecurity certificate is.

Division 3 (Offences) creates offences of:

- (a) providing false or misleading information to a biosecurity certifier, and
- (b) issuing a false biosecurity certificate, and
- (c) altering or amending a biosecurity certificate in a way that makes it false or misleading, and
- (d) falsely representing that a biosecurity certificate has been issued, and
- (e) an unauthorised person issuing or altering a biosecurity certificate.

Part 14 Accreditation of biosecurity certifiers

Division 1 (Biosecurity certifiers) provides for an accreditation authority to grant accreditation as a biosecurity certifier to any person and:

- (a) requires an accreditation authority to adopt an accreditation policy, and
- (b) specifies the effect of accreditation, which is that a biosecurity certifier is authorised by his or her accreditation to issue biosecurity certificates, and
- (c) provides that the authority that grants accreditation is the responsible accreditation authority in relation to that accreditation, and
- (d) provides for the approval of an authorised officer to exercise the functions of a biosecurity certifier.

Division 2 (Accreditation procedure) sets out the procedure for accreditation as a biosecurity certifier including the following:

- (a) the making of applications for accreditation,
- (b) the grant or refusal of applications,
- (c) the duration of accreditation, which cannot exceed 5 years,
- (d) the variation of accreditation.

Division 3 (Renewal of accreditation) provides for the renewal of accreditation including:

- (a) the making of applications for renewal, and
- (b) the grant or refusal of renewal applications.

Division 4 (Conditions of accreditation) specifies that:

- (a) accreditation as a biosecurity certifier is subject to any conditions prescribed by the regulations and any further conditions imposed by the responsible accreditation authority at the time of grant or renewal of accreditation or at any other time by variation, and
- (b) those conditions may include conditions that require the biosecurity certifier to exercise the functions of a biosecurity certifier in accordance with specified standards or require the biosecurity certifier to take out and maintain a policy of insurance.

Division 5 (Suspension or cancellation of accreditation) provides for the suspension or cancellation of accreditation as a biosecurity certifier including by setting out the following:

- (a) the grounds for suspension or cancellation of accreditation, which include a contravention of a requirement imposed by or under the proposed Act,
- (b) the procedure for suspension, which includes the biosecurity certifier being given an opportunity to make submissions about suspension,
- (c) the procedure for cancellation, which includes that the biosecurity certifier being given an opportunity to make submissions about cancellation,
- (d) the effect of suspension or cancellation on conditions.

Division 6 (Miscellaneous) contains provisions that:

- (a) make it an offence for a biosecurity certifier or former biosecurity certifier to contravene a condition of accreditation imposed by or under the proposed Act (which can be a continuing offence), and
- (b) make it an offence to impersonate a biosecurity certifier, and
- (c) provide for the appeal against certain decisions about accreditation to the Land and Environment Court.

Part 15 Biosecurity audits

Division 1 (Biosecurity audits) provides:

- (a) for the 2 types of biosecurity audits that may be carried out under the proposed Act (an accreditation audit and a compliance audit), and
- (b) that audits are to be carried out only by a biosecurity auditor, and
- (c) that biosecurity audits are mandatory when required by the Secretary or an accreditation authority, and
- (d) that an audit target is the person the subject of a biosecurity audit.

Division 2 (Accreditation audits) provides for accreditation audits (that is, audits carried out for the purposes of assessing certain matters in relation to biosecurity registration, accreditation as a biosecurity certifier, permits, appointment as a biosecurity auditor and approvals to exercise functions of an accreditation authority), including:

- (a) who can require an accreditation audit, and
- (b) the appointment of a biosecurity auditor, and
- (c) the functions of a biosecurity auditor in relation to an accreditation audit, and
- (d) the recovery of fees for accreditation audits, and
- (e) the use of accreditation audits.

Division 3 (Compliance audits) provides for the carrying out of compliance audits (that is, audits carried out for the purposes of assessing certain matters in relation to compliance with or contravention of the proposed Act), including the following:

- (a) who can require a compliance audit,
- (b) the factors involved in the decision to require a compliance audit,
- (c) the audit frequency policy,
- (d) the engagement of biosecurity auditors,
- (e) the functions of biosecurity auditors in relation to compliance audits,
- (f) the recovery of fees for compliance audits,
- (g) the use of compliance audits.

Division 4 (Functions of biosecurity auditor) sets out the functions of biosecurity auditors including the following:

- (a) the general function of a biosecurity auditor to carry out biosecurity audits and other functions conferred by or under the proposed Act,
- (b) the power of entry to premises of biosecurity auditors,
- (c) the use of assistants,
- (d) reporting requirements,
- (e) the requirement that certain matters be reported immediately.

Division 5 (Offences relating to biosecurity audits) creates offences of:

- (a) obstructing or hindering a biosecurity auditor in the exercise of the biosecurity auditor's functions under the proposed Act, and
- (b) the provision of false or misleading information to a biosecurity auditor.

Part 16 Appointment of biosecurity auditors

Division 1 (Appointment of biosecurity auditors) provides that:

- (a) an accreditation authority may appoint any person as a biosecurity auditor, and
- (b) an accreditation authority that has the power to appoint biosecurity auditors is required to adopt an appointment policy, and

- (c) the effect of appointment is that a biosecurity auditor is authorised to conduct biosecurity audits, and
- (d) the responsible accreditation authority is the authority that appoints the biosecurity auditor, and
- (e) authorised officers can be approved to exercise functions of biosecurity auditors.

Division 2 (Appointment procedure) provides for the procedure for the appointment of biosecurity auditors including:

- (a) the making of applications for appointment, and
- (b) the grant or refusal of applications, and
- (c) the duration of appointment, and
- (d) the variation of appointment.

Division 3 (Renewal of appointment) provides for the renewal of appointment as a biosecurity auditor, including:

- (a) the making of applications for renewal, and
- (b) the grant or refusal of renewal applications.

Division 4 (Conditions of appointment as biosecurity auditor) provides that appointment as a biosecurity auditor is subject to:

- (a) any conditions prescribed by the regulations, and
- (b) any conditions imposed by the responsible accreditation authority at the time of appointment or renewal of appointment or at any other time by variation.

Division 5 (Suspension or cancellation of appointment) provides for the suspension or cancellation of appointment as a biosecurity auditor, including by setting out:

- (a) the grounds for suspension or cancellation of appointment, which include contravention of a requirement imposed by or under the proposed Act, and
- (b) the procedure for suspension, which includes the biosecurity auditor being given an opportunity to make submissions about suspension, and
- (c) the procedure for cancellation, which includes the biosecurity auditor being given an opportunity to make submissions about cancellation, and
- (d) the effect of suspension or cancellation on conditions.

Division 6 (Miscellaneous) contains provisions that:

- (a) make it an offence for a biosecurity auditor to contravene a condition of appointment imposed by or under the proposed Act, and
- (b) make it an offence to impersonate a biosecurity auditor, and
- (c) provide for appeals to the Land and Environment Court against certain decisions about appointment as a biosecurity auditor.

Part 17 Accreditation authorities

Division 1 (Accreditation authorities) makes the following provisions in relation to accreditation authorities:

- (a) that an accreditation authority means the Secretary or any other person approved by the Secretary to exercise the functions of an accreditation authority,
- (b) that the Secretary can approve other persons to exercise the functions of an accreditation authority,
- (c) the effect of approval.

Division 2 (Approval procedure) sets out the procedure for the approval of accreditation authorities, including:

- (a) the making of applications for approval, and
- (b) the grant or refusal of applications for approval, and
- (c) the duration of approval, and
- (d) the variation of approval.

Division 3 (Renewal of approval) provides for the renewal of approvals, including:

- (a) applications for renewal of approvals, and
- (b) the grant or refusal of renewal applications.

Division 4 (Conditions of approval) provides that approval as an accreditation authority is subject to:

- (a) any conditions prescribed the regulations, and
- (b) any other conditions imposed by the Secretary at the time of the grant or renewal of approval or at any other time by variation to the approval.

Division 5 (Suspension or cancellation of approval) provides for the suspension or cancellation of approval, including by setting out:

- (a) the grounds for suspension or cancellation of approval which include a contravention of a requirement imposed by or under the proposed Act, and
- (b) the procedure for suspension, which includes the accreditation authority being given an opportunity to make submissions about suspension, and
- (c) the procedure for cancellation, which includes the accreditation authority being given an opportunity to make submissions about cancellation, and
- (d) the effect of suspension or cancellation on conditions.

Division 6 (Miscellaneous) includes provisions that:

- (a) make it an offence for an accreditation authority or former accreditation authority to contravene a condition of approval imposed by or under the proposed Act, and
- (b) provide for appeals to the Land and Environment Court against certain decisions about approvals, and
- (c) provide for the disclosure of information to the Secretary by accreditation authorities.

Part 18 Offences and criminal proceedings

Division 1 (Criminal proceedings generally) provides that:

- (a) the maximum penalty for a category 1 offence under the proposed Act is \$1,100,000 or 3 years imprisonment (in the case of an individual) or \$2,200,000 (in the case of a corporation) and provides for continuing offences, and
- (b) the maximum penalty for a category 2 offence is \$220,000 (in the case of an individual) or \$440,000 (in the case of a corporation) and 5 times that amount if the offence is committed negligently, and provides for continuing offences, and
- (c) negligence in the proposed Act involves such a great falling short of the standard of care that a reasonable person would exercise in the circumstances that the conduct merits criminal punishment, and
- (d) special requirements apply to the prosecution of an act or omission that can constitute both a category 1 offence and a category 2 offence, and
- (e) proceedings for offences are to be disposed of summarily by the Local Court or the Supreme Court in its summary jurisdiction, and
- (f) the time limit for proceedings is generally 3 years (for category 1 offences) and 2 years (for category 2 offences), and

(g) certain specified matters are to be considered in imposing a penalty.

Division 2 (Facilitation of proof) provides for the following aspects of the facilitation of proof:

- (a) the issue of evidentiary certificates to facilitate proof of matters,
- (b) the evidence of analysts,
- (c) evidence as to state of mind of a corporation,
- (d) evidence of the publication of instruments on the Department's website.

Division 3 (Defences and related matters) provides for the following defences and other matters:

- (a) a defence of due diligence in relation to category 1 offences that applies if the accused person establishes that the commission of the offence was due to causes over which the person had no control and that the person took reasonable precautions and exercised due diligence to prevent the commission of the offence,
- (b) a defence that the conduct of the person was required or authorised by or under the proposed Act or a law of the Commonwealth,
- (c) a defence for things done by or under the direction of authorised officers,
- (d) a defence for common carriers,
- (e) proof of exemptions.

Division 4 (Court orders in connection with offences) specifies the court orders that can be made in connection with offences under the proposed Act, and appeals against orders, which include the following:

- (a) orders for restoration and prevention,
- (b) orders for costs, expenses and compensation, whether at the time the offence is proved or later,
- (c) orders regarding the recovery of the costs and expenses of investigations,
- (d) orders regarding monetary benefits,
- (e) prohibition orders,
- (f) additional orders.

Division 5 (Penalty notices) provides for:

- (a) the issue of penalty notices for offences under the proposed Act or the regulations, and
- (b) the restriction of the power to issue penalty notices to government officers and certain eligible officers.

Division 6 (Ancillary offences) provides for ancillary offences including:

- (a) liability of directors for offences by the corporation whether special executive liability offences or executive liability offences, and
- (b) liability for complicity, and
- (c) offences relating to furnishing false or misleading information.

Part 19 Compensation

Part 19 provides for the following aspects of compensation:

- (a) that compensation is payable to owners of certain animals, plants or property destroyed in accordance with an emergency order or certain animals or plants that have died as a result of emergency biosecurity matter,
- (b) the determination of the amount of compensation (including market value),
- (c) the exclusion of other losses,
- (d) the making of claims for compensation,

- (e) the recovery of compensation,
- (f) the grounds for refusal or reduction of claims,
- (g) the manner in which disputed claims or false claims will be dealt with,
- (h) the power to correct decisions,
- (i) the power to require payment for claimants.

Part 20 Recovery of administrative costs and other amounts

Division 1 (Preliminary) provides that:

- (a) certain administrative costs are recoverable amounts under cost recovery orders, and
- (b) only government agencies can exercise certain cost recovery powers delegated by the Secretary.

Division 2 (Cost recovery orders) provides for:

- (a) the Secretary to require a person to pay the recoverable amount, and
- (b) the contents of such cost recovery orders, and
- (c) the charging of interest on unpaid amounts payable under such orders, and
- (d) the changing of payment arrangements for a recoverable amount.

Division 3 (Recovery of compliance costs) provides for:

- (a) the recovery of amounts payable under cost recovery orders as a debt, and
- (b) the registration of cost recovery orders as a charge on land.

Division 4 (General) provides for:

- (a) appeals to the Land and Environment Court against certain decisions relating to issue a cost recovery order, and
- (b) the waiver or remission of recoverable amounts, and
- (c) the presumed date of service of cost recovery orders.

Part 21 Permits

Division 1 (Preliminary) contains provisions that:

- (a) provide that the relevant decision-maker in relation to a permit is the person who has the power to grant the permit, and
- (b) specify when a relevant decision-maker may exercise powers in the case of an emergency.

Division 2 (Permits) provides for the following:

- (a) the grant of permits that authorise conduct that, but for the permit, would or might contravene a requirement imposed by or under the proposed Act,
- (b) that permits may be individual permits or group permits,
- (c) that permits may be granted by the Secretary (in any case) or by an authorised officer,
- (d) that emergency permits and prohibited matter permits can only be granted by the Secretary,
- (e) that an emergency permit is a permit that authorises conduct that, but for the permit, would or might contravene an emergency order and that is expressed to apply during the emergency concerned,
- (f) that a prohibited matter permit is a permit that authorises dealing with biosecurity matter that is prohibited matter throughout the State or in a part of the State,
- (g) that the effect of a permit is that a person is not guilty of an offence against the proposed Act or the regulations if the person was authorised to engage in the conduct alleged to constitute the offence concerned by a permit (and that only an emergency permit expressed

to apply in relation to an emergency authorises any conduct in contravention of an emergency order or emergency biosecurity direction),

- (h) that a person who contravenes a condition of an individual permit, or who engages in any dealing or other conduct under the purported authority of a group permit and who contravenes a condition of the permit, is guilty of an offence.

Division 3 (Application for permit) provides for applications for permits, including:

- (a) the making of applications, and
- (b) the grant or refusal of applications, and
- (c) the duration of permits, and
- (d) the variation of permits.

Division 4 (Renewal of permit) provides for the renewal of permits, including:

- (a) the making of applications for renewal, and
- (b) the grant or refusal of applications for renewal.

Division 5 (Conditions of permit) provides that:

- (a) a permit is subject to the conditions prescribed by the regulations or imposed by the relevant decision-maker either at the time of the grant or renewal of the permit or at any other time by variation, and
- (b) conditions of a permit may require insurance cover, co-operation with or arrangement of biosecurity audits or the provision of financial assurance, and
- (c) conditions can provide that a permit takes effect after a specified period or in specified circumstances.

Division 6 (Suspension or cancellation of permit) makes the following provisions about the suspension or cancellation of permits:

- (a) the general grounds for the suspension or cancellation of the permit, which include a contravention by the permit holder of a requirement imposed by or under the proposed Act,
- (b) additional grounds for suspension or cancellation of a permit in the case of an emergency,
- (c) the giving of notice of suspension of a permit and the giving of an opportunity to make submissions about suspension to a permit holder,
- (d) the giving of notice of cancellation of a permit and the giving of an opportunity to make submissions about cancellation to a permit holder,
- (e) the effect of the suspension or cancellation on conditions.

Division 7 (Miscellaneous) provides for:

- (a) the surrender of permits, and
- (b) appeals against decisions about permits to the Land and Environment Court.

Part 22 Administration

Division 1 (Authorised officers) provides for the following:

- (a) the appointment of authorised officers,
- (b) the imposition of conditions or limitations on instruments of appointment as an authorised officer,
- (c) that police officers are taken to be authorised officers,
- (d) the identification of authorised officers,
- (e) the use of assistants and dogs by authorised officers,
- (f) offences of obstructing authorised officers, assaulting authorised officers and impersonating authorised officers.

Division 2 (Local control authorities—weeds) contains provisions:

- (a) providing that the council of a local government area is the local control authority for land in the area (unless weed control functions have been conferred on a county council), the Western Lands Commissioner is the local control authority for other land in the Western Division and the Lord Howe Island Board is the local control authority for Lord Howe Island, and
- (b) specifying the functions of local control authorities, and
- (c) providing for local control authorities to appoint authorised officers to control weeds, and
- (d) empowering local control authorities to recover fees, and
- (e) providing for arrangements to be made for the joint exercise of functions of local control authorities and for the making of delegations by local control authorities.

Division 3 (Other officers) provides for the appointment of:

- (a) a Chief Plant Protection Officer, and
- (b) a Chief Veterinary Officer.

Division 4 (General) provides for the following miscellaneous matters:

- (a) the delegation by the Secretary of certain functions conferred on the Secretary by the proposed Act,
- (b) the extraterritorial exercise of functions,
- (c) access to RMS information by authorised officers,
- (d) the waiver and refund of fees and charges.

Part 23 Miscellaneous

Part 23 deals with the following miscellaneous matters:

- (a) protection from liability for matters or things done or omitted to be done for the purposes of executing the proposed Act,
- (b) permitting the Secretary to bring proceedings in the Land and Environment Court to restrain a contravention or threatened or apprehended contravention of the proposed Act,
- (c) permitting actions authorised under the proposed Act to be taken despite other legislation about environmental planning and assessment, native vegetation, threatened species, national parks and wildlife,
- (d) making it clear that cruelty to animals is not authorised by the proposed Act,
- (e) providing for a limited exemption from the *Surveillance Devices Act 2007* for devices installed or used to monitor biosecurity matter or other things under the proposed Act,
- (f) the continuing effect of certain requirements that specify a time for compliance,
- (g) the service of notices and documents,
- (h) the description of land in notices and instruments,
- (i) the factors that underpin the formation of certain reasonable suspicions under the proposed Act in relation to carriers, infection and infestation,
- (j) the power of the Secretary to create exemptions from the operation of the proposed Act for occupiers, biosecurity matter, carriers, land or things,
- (k) establishing that the *Personal Property Securities Act 2009* of the Commonwealth does not apply to certain matters under the proposed Act,
- (l) the making of regulations,
- (m) the review of the proposed Act.

Schedule 1 Special provisions relating to weeds

Schedule 1 sets out further provisions relating to the general biosecurity duty imposed by proposed Part 3. Those special provisions relate to weeds and include the following:

- (a) a duty to control weeds on roads,
- (b) a duty to control aquatic weeds,
- (c) a duty to control weeds in irrigation areas.

Schedule 2 Prohibited matter

Schedule 2 specifies matter that is prohibited matter (that is, matter that it is an offence to deal with under proposed Part 4). Some matter is specified as prohibited matter throughout the State and some is only prohibited matter in a specified part of the State. The proposed Act enables the regulations to amend the proposed Schedule by inserting, altering or omitting any items or descriptions.

Schedule 3 Prohibited dealings

Schedule 3 specifies certain prohibited dealings (that is, dealings that it is an offence to engage in under proposed Division 1 of Part 11). The proposed Act enables the regulations to amend the proposed Schedule by inserting, altering or omitting the description of any matter.

Schedule 4 Registrable dealings

Schedule 4 specifies certain registrable dealings (that is, dealings for which registration is required under proposed Division 2 of Part 11). The proposed Act enables the regulations to amend the proposed Schedule by inserting, altering or omitting the description of any matter.

Schedule 5 Regulation-making powers

Schedule 5 lists some specific regulation-making powers, including the power to make regulations for or with respect to the following:

- (a) exemptions from the proposed Act,
- (b) fees,
- (c) the identification and tracing of biosecurity matter,
- (d) the classification of non-indigenous animals,
- (e) the powers of authorised officers.



New South Wales

Biosecurity Bill 2014

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New South Wales

Biosecurity Bill 2014

No. , 2014

A Bill for

An Act to provide for the prevention, elimination, minimisation and management of biosecurity risks; and for other purposes.

The Legislature of New South Wales enacts:	1
Part 1 Preliminary	2
1 Name of Act	3
This Act is the <i>Biosecurity Act 2014</i> .	4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6
Note. The scheme provided for in this Act is being implemented in a 2 stage process. The first stage is the enactment of this Act. The second stage is the repeal or partial repeal of various Acts that deal with the same subject-matter, and the enactment of any necessary savings, transitional or other consequential measures.	7 8 9 10
It is envisaged that, in stage 2, the following Acts will be repealed or partially repealed:	11
(a) the <i>Animal Diseases and Animal Pests (Emergency Outbreaks) Act 1991</i> ,	12
(b) the <i>Apiaries Act 1985</i> ,	13
(c) the <i>Deer Act 2006</i> ,	14
(d) the <i>Fertilisers Act 1985</i> ,	15
(e) the <i>Fisheries Management Act 1994</i> ,	16
(f) the <i>Local Land Services Act 2013</i> ,	17
(g) the <i>Non-Indigenous Animals Act 1987</i> ,	18
(h) the <i>Noxious Weeds Act 1993</i> ,	19
(i) the <i>Plant Diseases Act 1924</i> ,	20
(j) the <i>Stock (Chemical Residues) Act 1975</i> ,	21
(k) the <i>Stock Diseases Act 1923</i> ,	22
(l) the <i>Stock Foods Act 1940</i> ,	23
(m) the <i>Stock Medicines Act 1989</i> ,	24
(n) the <i>Wild Dog Destruction Act 1921</i> .	25
3 Objects of Act	26
(1) The primary object of this Act is to provide a framework for the prevention, elimination and minimisation of biosecurity risks posed by biosecurity matter, dealing with biosecurity matter, carriers and potential carriers, and other activities that involve biosecurity matter, carriers or potential carriers.	27 28 29 30
(2) The other objects of this Act are as follows:	31
(a) to promote biosecurity as a shared responsibility between government, industry and communities,	32 33
(b) to provide a framework for the timely and effective management of the following:	34 35
(i) pests, diseases, contaminants and other biosecurity matter that is economically significant for primary production industries,	36 37
(ii) threats to terrestrial and aquatic environments arising from pests, diseases, contaminants and other biosecurity matter,	38 39
(iii) public health and safety risks arising from contaminants, non-indigenous animals, bees, weeds and other biosecurity matter known to contribute to human health problems,	40 41 42
(iv) pests, diseases, contaminants and other biosecurity matter that may have an adverse effect on community activities and infrastructure,	43 44
(c) to provide a framework for risk-based decision-making in relation to biosecurity,	45 46

(d)	to give effect to intergovernmental biosecurity agreements to which the State is a party,	1 2
(e)	to provide the means by which biosecurity requirements in other jurisdictions can be met, so as to maintain market access for industry.	3 4
4	Act to bind Crown	5
	This Act binds the Crown in right of New South Wales and, in so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.	6 7 8
5	Extraterritorial application	9
(1)	It is the intention of the Parliament that this Act apply within the State and outside the State to the full extent of the extraterritorial legislative capacity of the Parliament.	10 11
(2)	Without limiting subsection (1), it is the intention of the Parliament that the operation of this Act is, as far as possible, to include operation in relation to the following:	12 13
(a)	things situated in or outside the territorial limits of this State,	14
(b)	acts, transactions and matters done, entered into or occurring in or outside the territorial limits of this State,	15 16
(c)	things, acts, transactions and matters (wherever situated, done, entered into or occurring) that would, apart from this Act, be governed or otherwise affected by the law of another jurisdiction.	17 18 19
6	Act does not give rise to or affect civil cause of action	20
(1)	A provision of this Act does not confer a right of action in civil proceedings based on a contravention of the provision.	21 22
(2)	Except as otherwise expressly provided by this Act, this Act does not affect or limit a civil right or remedy that exists apart from this Act, whether at common law or otherwise.	23 24 25
(3)	Without limiting subsection (2), compliance with this Act does not necessarily show that a civil obligation that exists apart from this Act has been satisfied or has not been breached.	26 27 28

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7 General definitions	3
In this Act:	4
<i>accreditation audit</i> —see section 208.	5
<i>accreditation authority</i> —see section 250.	6
<i>approved form</i> means a form approved by the Secretary.	7
<i>approved manner</i> means a manner approved by the Secretary.	8
<i>assess</i> includes investigate.	9
<i>authorised officer</i> , in relation to a provision of this Act, means a person who is appointed as an authorised officer under this Act and authorised by the person’s appointment to exercise the function in relation to which the expression is used.	10 11 12
<i>bee</i> means a managed bee of the genus <i>Apis mellifera L.</i> or any other genus of managed bee prescribed in the regulations for the purposes of this definition.	13 14
<i>biosecurity audit</i> means an accreditation audit or a compliance audit.	15
<i>biosecurity auditor</i> means a person who has been appointed as a biosecurity auditor under Part 16 and whose appointment is in force.	16 17
<i>biosecurity certificate</i> —see section 174.	18
<i>biosecurity certifier</i> means a person who has been accredited by an accreditation authority as a biosecurity certifier under Part 14 and whose accreditation is in force.	19 20
<i>biosecurity direction</i> means a general biosecurity direction or an individual biosecurity direction under Part 9.	21 22
<i>biosecurity duty</i> means a biosecurity duty imposed by this Act.	23
Note. See Parts 3 and 4 for biosecurity duties.	24
<i>biosecurity emergency</i> means an emergency arising because of a biosecurity risk or biosecurity impact.	25 26
<i>biosecurity event</i> —see section 39.	27
<i>biosecurity impact</i> —see section 13.	28
<i>biosecurity matter</i> —see section 10.	29
<i>biosecurity participant</i> means a person who is, or formerly was:	30
(a) a registered entity, or	31
(b) a biosecurity certifier, or	32
(c) a biosecurity auditor, or	33
(d) the holder of an individual permit, or	34
(e) an applicant for a group permit that was granted, or	35
(f) a person who has given a biosecurity undertaking, or	36
(g) an accreditation authority.	37
<i>biosecurity registration</i> means biosecurity registration granted under Part 12.	38
<i>biosecurity risk</i> —see section 14.	39
<i>biosecurity undertaking</i> means a biosecurity undertaking under Part 10 that is in effect.	40 41
<i>biosecurity zone regulation</i> means a regulation under Part 7.	42
<i>carrier</i> —see section 11.	43
<i>category 1 offence</i> — see section 269 for maximum penalty.	44

<i>category 2 offence</i> —see section 270 for maximum penalty.	1
<i>Chief Plant Protection Officer</i> means the person appointed under this Act to be the Chief Plant Protection Officer.	2 3
<i>Chief Veterinary Officer</i> means the person appointed under this Act to be the Chief Veterinary Officer.	4 5
<i>compliance audit</i> —see section 214.	6
<i>conduct</i> includes an omission.	7
<i>contaminant</i> means any non-living thing:	8
(a) occurring in or on biosecurity matter or a carrier, or	9
(b) that may be ingested or absorbed by biosecurity matter or a carrier.	10
<i>control order</i> means an order under Part 6.	11
<i>corresponding law</i> means a law of another State or a Territory, or the Commonwealth, that corresponds to the provisions of this Act, and includes any law declared by the regulations to be a corresponding law.	12 13 14
<i>cost recovery order</i> means an order under section 314.	15
<i>critical non-compliance</i> means anything prescribed by the regulations as critical non-compliance.	16 17
<i>deal</i> —see section 12.	18
<i>Department</i> means the Department of Trade and Investment, Regional Infrastructure and Services.	19 20
<i>director</i> has the same meaning it has in the <i>Corporations Act 2001</i> of the Commonwealth.	21 22
<i>disease</i> means any infection of an organism having the potential to result in or resulting in an abnormal, pathological or unhealthy condition that is caused by a known or unknown disease agent.	23 24 25
<i>disease agent</i> includes a prion, a microorganism, an infectious agent and a parasite.	26
<i>domestic animal</i> means any animal in a domesticated state or under the control of humans, regardless of whether animals of its species are categorised at common law as being of a tame or domestic nature.	27 28 29
<i>emergency biosecurity matter</i> means biosecurity matter that is the subject of an emergency order.	30 31
<i>emergency order</i> means an order under Part 5.	32
<i>emergency permit</i> —see section 328.	33
<i>engage in a dealing</i> —see section 12.	34
<i>executive liability offence</i> —see section 298.	35
<i>external treatment measure</i> means a treatment measure (such as cleaning or disinfection) that is limited to the external parts of the subject's body and, accordingly, which does not require:	36 37 38
(a) the penetration of the subject's skin, or	39
(b) the subject to take any substance.	40
<i>fitting</i> means any thing that is necessary for production, management, growing, housing, cultivation, harvesting, storage, transport, handling, processing or sale of animals, animal products or plants.	41 42 43
<i>fodder</i> means any water, meal, meat, plant, vegetable, grain, algal products or other material (including a mixture of materials) used for the food, supplementation or litter of animals.	44 45 46
<i>function</i> includes a power, authority or duty, and <i>exercise</i> a function includes perform a duty.	47 48

general biosecurity direction —see section 113.	1
government agency means:	2
(a) a Public Service agency (within the meaning of the <i>Government Sector Employment Act 2013</i>), or	3 4
(b) a NSW Government agency, or	5
(c) a State owned corporation under the <i>State Owned Corporations Act 1989</i> , or	6
(d) a council or county council within the meaning of the <i>Local Government Act 1993</i> , or	7 8
(e) any other public or local authority constituted by or under an Act, or	9
(f) the Western Lands Commissioner, or	10
(g) any person or body declared by the regulations to be a government agency.	11
group permit —see section 326.	12
individual biosecurity direction —see section 113.	13
individual permit —see section 326.	14
intentionally includes knowingly.	15
interstate biosecurity certificate —see section 176.	16
land includes:	17
(a) the sea or an arm of the sea, and	18
(b) a bay, inlet, lagoon, lake or body of water, whether inland or not and whether tidal or non-tidal, and	19 20
(c) a river, stream or watercourse, whether tidal or non-tidal.	21
local control authority —see section 361.	22
move includes transport or distribute.	23
negligent —see section 271.	24
non-indigenous animal means an animal not native to Australia before European settlement.	25 26
obstruction offence means an offence of:	27
(a) furnishing false or misleading information, or	28
(b) resisting or obstructing an authorised officer, or	29
(c) assaulting, abusing or threatening an authorised officer.	30
occupier , in relation to land, includes any person having the care, control or management of the land.	31 32
permit means a permit granted by the Secretary or an authorised officer under Part 21.	33 34
pest —see section 15.	35
plant includes any member of the Plantae, Fungi and Protista kingdoms, whether whole or in part, and whether alive or dead.	36 37
premises includes any land, building, structure or vehicle and any place, whether built on or not.	38 39
prohibited dealing means a dealing described in Schedule 3.	40
prohibited matter means biosecurity matter that is prohibited matter throughout the State or in a part of the State.	41 42
Note. See Part 4 and Schedule 2.	43
prohibited matter event —see section 31.	44
prohibited matter permit —see section 329.	45

<i>property</i> , in Part 19, means any building, structure, animal products, fodder, fittings and vehicles.	1 2
<i>reasonably practicable</i> —see section 16.	3
<i>registered entity</i> —see section 147.	4
<i>registrable dealing</i> means a dealing described in Schedule 4.	5
<i>responsible accreditation authority</i> —see sections 184 and 232.	6
<i>Secretary</i> means the Secretary of the Department.	7
<i>sell</i> includes:	8
(a) sell by wholesale, retail, auction or tender, or	9
(b) barter or exchange, or	10
(c) supply for profit, or	11
(d) offer for sale, receive for sale or expose for sale, or	12
(e) consign or deliver for sale, or	13
(f) have in possession for sale, or	14
(g) cause or allow any of the above to be done.	15
<i>special executive liability offence</i> —see section 297.	16
<i>thing</i> includes a living thing (other than a human).	17
<i>treatment measure</i> means a treatment or process for the removal or eradication of biosecurity matter (including cleaning, fumigation, disinfection, medication and vaccination).	18 19 20
<i>vehicle</i> includes a conveyance of any kind, whether or not self-propelled, and whether or not (at any material time) capable of being moved or operated, and includes:	21 22 23
(a) any caravan, trailer, truck, train and other land vehicle, and	24
(b) any ship, hovercraft, boat, ferry, raft and pontoon or other water craft, and	25
(c) any aeroplane, helicopter, hot air balloon, drone or other aircraft.	26
<i>weed</i> means a plant that is a pest.	27
8 Identification of biosecurity matter	28
(1) If biosecurity matter referred to in this Act or the regulations is referred to by both a common name and a scientific name, the common name is for information purposes only and does not limit the description of the biosecurity matter.	29 30 31
(2) If biosecurity matter referred to in this Act or the regulations has a life cycle, a reference to the biosecurity matter includes a reference to that biosecurity matter at any stage of its life cycle.	32 33 34
9 Notes	35
Notes included in this Act do not form part of this Act.	36
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10 Biosecurity matter	38
<i>Biosecurity matter</i> means:	39
(a) any living thing, other than a human, or	40
(b) any part of an animal, plant or living thing, other than a human, or	41
(c) a product of a living thing, other than a human, or	42

(d)	a disease, or	1
(e)	a prion, or	2
(f)	a contaminant, or	3
(g)	a disease agent that can cause disease in a living thing (other than a human) or that can cause disease in a human via transmission from a non-human host to a human.	4 5 6
11	Carriers	7
	A <i>carrier</i> means any thing (whether alive, dead or inanimate, and including a human) that has, or is capable of having, any biosecurity matter on it, attached to it or contained in it.	8 9 10
12	Dealings	11
(1)	<i>Deal</i> with biosecurity matter or a carrier, or to <i>engage in a dealing</i> with biosecurity matter or a carrier, includes any of the following:	12 13
(a)	keep biosecurity matter or a carrier,	14
(b)	have possession, care, custody or control of biosecurity matter or a carrier,	15
(c)	produce, manufacture or supply biosecurity matter or a carrier,	16
(d)	import biosecurity matter or a carrier into the State,	17
(e)	acquire biosecurity matter or a carrier,	18
(f)	buy, sell or dispose of biosecurity matter or a carrier,	19
(g)	move biosecurity matter or a carrier,	20
(h)	use biosecurity matter or a carrier for any purpose,	21
(i)	breed, propagate, grow, raise, feed or culture biosecurity matter or a carrier,	22
(j)	experiment with biosecurity matter or a carrier,	23
(k)	display biosecurity matter or a carrier,	24
(l)	enter into an agreement or other arrangement under which another person deals with biosecurity matter or a carrier,	25 26
(m)	agree to deal with biosecurity matter or a carrier,	27
(n)	anything prescribed by the regulations as a dealing with, or engaging in a dealing with, biosecurity matter or a carrier.	28 29
(2)	An occupier of land is taken to have possession of any biosecurity matter or carrier on that land unless the occupier establishes that the biosecurity matter or carrier was in the possession, care, custody or control of another person.	30 31 32
(3)	The regulations may specify circumstances in which a person is taken not to be dealing with or engaging in a dealing with biosecurity matter or a carrier for the purposes of this Act or any provision of this Act.	33 34 35
13	Biosecurity impact	36
(1)	A <i>biosecurity impact</i> means an adverse effect on the economy, the environment or the community that arises, or has the potential to arise, from biosecurity matter, a carrier or dealing with biosecurity matter or a carrier, being an adverse effect that is related to:	37 38 39 40
(a)	the introduction, presence, spread or increase of a disease or disease agent into or within the State or any part of the State, or	41 42
(b)	the introduction, presence, spread or increase of a pest into or within the State or any part of the State, or	43 44

(c)	stock food or fertilisers, or	1
(d)	animals, plants or animal products becoming chemically affected, or	2
(e)	public nuisance caused by bees, or	3
(f)	a risk to public safety caused by bees or non-indigenous animals, or	4
(g)	any thing declared by the regulations to be a biosecurity impact.	5
(2)	An animal or plant, or a product of an animal or plant, is <i>chemically affected</i> if it contains a contaminant and, as a result:	6
		7
(a)	it is or is likely to become unfit for sale or export for human consumption, or	8
(b)	it is or is likely to pose a danger to human health or to the environment, or	9
(c)	it is or is likely to be detrimental to export or other trade.	10
	Note. "Plant" is defined to include parts of plants (whether alive or dead).	11
14	Biosecurity risk	12
	<i>Biosecurity risk</i> means the risk of a biosecurity impact occurring.	13
15	Pests	14
	A <i>pest</i> means a plant or animal (other than a human) that has an adverse effect on, or is suspected of having an adverse effect on, the environment, the economy or the community because it has the potential to:	15
		16
		17
(a)	out compete other organisms for resources, including food, water, nutrients, habitat and sunlight, or	18
		19
(b)	prey or feed on other organisms, or	20
(c)	transmit disease to other organisms, or	21
(d)	cause harm to other organisms through its toxicity, or	22
(e)	otherwise reduce the productivity of agricultural systems or the value of agricultural products, or	23
		24
(f)	damage infrastructure, or	25
(g)	reduce the amenity or aesthetic value of premises, or	26
(h)	harm or reduce biodiversity, or	27
(i)	do any other thing, or have any other effect, prescribed by the regulations.	28
16	Reasonably practicable	29
	<i>Reasonably practicable</i> , in relation to the prevention, elimination or minimisation of a biosecurity risk, means that which is, or was at a particular time, reasonably able to be done, taking into account and weighing up all relevant matters including:	30
		31
		32
(a)	the biosecurity risk concerned, and	33
(b)	the degree of biosecurity impact that arises, or might arise, from the biosecurity risk, and	34
		35
(c)	what the person concerned knows, or ought reasonably to know, about the biosecurity risk and the ways of preventing, eliminating or minimising the risk, and	36
		37
		38
(d)	the availability and suitability of ways to prevent, eliminate or minimise the biosecurity risk, and	39
		40
(e)	the cost associated with available ways of preventing, eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.	41
		42
		43

Division 3	Principles that apply to biosecurity duties	1
17	Principles that apply to duties	2
	This Division sets out the principles that apply to all biosecurity duties that persons have under this Act.	3 4
18	Duties not transferable	5
	A biosecurity duty cannot be transferred to another person.	6
19	Person may have more than one duty	7
	A person can have more than one biosecurity duty.	8
20	More than one person can have a duty	9
(1)	More than one person can concurrently have the same biosecurity duty.	10
(2)	Each person who has a biosecurity duty must discharge that duty to the standard required by this Act even if another person has the same duty.	11 12
(3)	If more than one person has a biosecurity duty in relation to the same thing, each person:	13 14
(a)	retains responsibility for the person's duty in relation to the thing, and	15
(b)	must discharge the person's duty to the extent to which the person has the capacity to influence and control the thing or would have had that capacity but for an agreement or arrangement purporting to limit or remove that capacity.	16 17 18
21	Duty to prevent, eliminate or minimise biosecurity risk	19
	A duty imposed on a person to prevent, eliminate or minimise a biosecurity risk so far as is reasonably practicable is a duty:	20 21
(a)	to prevent or eliminate a biosecurity risk, so far as is reasonably practicable, and	22 23
(b)	if it is not reasonably practicable to prevent or eliminate the biosecurity risk, to minimise the biosecurity risk so far as is reasonably practicable.	24 25

Part 3	General biosecurity duty	1
22	Biosecurity duty—dealings with biosecurity matter and carriers	2
	Any person who deals with biosecurity matter or a carrier and who knows, or ought reasonably to know, the biosecurity risk posed or likely to be posed by the biosecurity matter, carrier or dealing has a biosecurity duty to ensure that, so far as is reasonably practicable, the biosecurity risk is prevented, eliminated or minimised.	3 4 5 6
23	Offence of failing to discharge biosecurity duty	7
(1)	A person who fails to discharge the person’s biosecurity duty under this Part is guilty of an offence.	8 9
(2)	An offence against this section is a category 1 offence if:	10
(a)	the failure is intentional or reckless, and	11
(b)	the failure caused, or was likely to cause, a significant biosecurity impact.	12
(3)	In any other case, the offence is a category 2 offence.	13
(4)	An offence against this section is an executive liability offence.	14
(5)	A person who is guilty of a category 1 offence or category 2 offence against this section because the person fails to discharge the person’s biosecurity duty under this Part:	15 16 17
(a)	continues, until the duty is discharged, to be required to discharge that duty, and	18 19
(b)	is guilty of a continuing offence (of the same category) for each day the failure continues.	20 21
24	Mandatory measures	22
(1)	The regulations may require persons who deal with biosecurity matter or carriers to take specified actions to prevent, eliminate or minimise a biosecurity risk posed or likely to be posed by the biosecurity matter, carrier or dealing (referred to in this Part as <i>mandatory measures</i>).	23 24 25 26
(2)	The mandatory measures may apply in relation to all or any specified class of persons, dealings, biosecurity matter or carriers.	27 28
(3)	A person who deals with biosecurity matter or a carrier and who contravenes any mandatory measures that are applicable to the biosecurity matter, carrier or dealing is taken to have failed to ensure that, so far as is reasonably practicable, the biosecurity risk posed or likely to be posed by the biosecurity matter, carrier or dealing is prevented, eliminated or minimised. Note. Accordingly, the person could be charged with an offence under section 23 in respect of that failure.	29 30 31 32 33 34 35
(4)	The mandatory measures may be specified to be minimum mandatory measures, in which case compliance with those measures does not, of itself, demonstrate that a person ensured that, so far as is reasonably practicable, the biosecurity risk posed or likely to be posed by the biosecurity matter, carrier or dealing was prevented, eliminated or minimised.	36 37 38 39 40
(5)	In this section, <i>actions</i> include:	41
(a)	refraining from doing a thing, and	42
(b)	adopting any procedures or programs.	43

25	Offence of failure to comply with mandatory measures	1
(1)	A person who deals with biosecurity matter or a carrier and who contravenes any mandatory measures that apply to that biosecurity matter, carrier or dealing is guilty of an offence.	2 3 4
(2)	An offence against this section is a category 2 offence.	5
(3)	An offence against this section is an executive liability offence.	6
(4)	A person who is guilty of an offence against this section because the person contravenes any mandatory measures:	7 8
(a)	continues, until the mandatory measures are complied with and despite the fact that any specified period or time for compliance has expired or passed, to be required to comply with the mandatory measures, and	9 10 11
(b)	is guilty of a continuing offence for each day the contravention continues.	12
(5)	A person cannot be found guilty of both an offence against section 23 and an offence against this section in respect of the same conduct.	13 14
(6)	In proceedings for an offence against section 23 in which it is alleged the person charged with the offence contravened any mandatory measures, if the court is not satisfied that the offence is proven, but is satisfied that the person committed an offence against this section, the court may find the person guilty of an offence against this section. The person is liable to punishment accordingly.	15 16 17 18 19
26	Special provisions relating to weeds	20
	Schedule 1 contains further provisions relating to the requirements imposed by this Part. Those provisions relate specifically to weeds.	21 22

Part 4	Prohibited matter and related biosecurity duties	1
Division 1	Preliminary	2
27	What is prohibited matter	3
(1)	The biosecurity matter described in Schedule 2 is prohibited matter.	4
(2)	Biosecurity matter described in Part 1 of Schedule 2 is prohibited matter throughout the State.	5 6
(3)	Biosecurity matter described in Columns 1 and 2 of Part 2 of Schedule 2 is prohibited matter in that part of the State described next to the biosecurity matter in Column 3 of Part 2 of Schedule 2.	7 8 9
(4)	The regulations may amend Schedule 2 by inserting, altering or omitting any items or descriptions in that Schedule.	10 11
(5)	The regulations may provide for transitional arrangements for the lawful disposal or destruction of biosecurity matter that becomes prohibited matter.	12 13
Division 2	Offence of dealing with prohibited matter	14
28	Dealings with prohibited matter	15
(1)	A person who deals with any biosecurity matter that is prohibited matter throughout the State is guilty of an offence.	16 17
(2)	A person who deals with biosecurity matter is guilty of an offence if:	18
(a)	the biosecurity matter is located in a part of the State in which it is prohibited matter, or	19 20
(b)	as a result of the dealing, the biosecurity matter enters or is likely to enter a part of the State in which it is prohibited matter.	21 22
(3)	An offence against subsection (1) or (2) is a category 1 offence if the offence is committed intentionally or recklessly.	23 24
(4)	In any other case, the offence is a category 2 offence.	25
(5)	A category 1 offence against subsection (1) or (2) is an executive liability offence.	26
29	Defence for unknowing possession	27
	In proceedings for a category 2 offence under this Division, it is a defence to the prosecution of an offence constituted by a person having prohibited matter in the person's possession, care, custody or control if the person charged with the offence proves that the person did not know, and could not reasonably be expected to have known, that the person had the prohibited matter in the person's possession, care, custody or control.	28 29 30 31 32 33
	Note. A due diligence defence applies to category 1 offences. See Part 18.	34
Division 3	Duty to notify presence of prohibited matter	35
30	Biosecurity duty	36
(1)	A person who becomes aware of, or suspects, that a prohibited matter event has occurred, is occurring or is about to occur has a biosecurity duty to immediately notify the prohibited matter event in accordance with the requirements specified in the regulations.	37 38 39 40

(2)	A biosecurity duty arises under this Division only if the person:	1
(a)	is the owner, occupier or person in charge of, or has the care, custody or control of, premises, a carrier or other thing in relation to which the prohibited matter is present or suspected of being present, or	2 3 4
(b)	becomes aware of, or suspects, the prohibited matter event as a result of any consultation or other work carried out in relation to premises, a carrier or other thing in the person's professional capacity, or	5 6 7
(c)	is a person of a class prescribed by the regulations.	8
31	Prohibited matter event—meaning	9
	<i>A prohibited matter event</i> means:	10
(a)	the presence of biosecurity matter in a part of the State in which it is prohibited matter, or	11 12
(b)	the introduction of biosecurity matter into a part of the State in which it is prohibited matter.	13 14
32	Offence of failing to discharge biosecurity duty to notify presence of prohibited matter	15 16
(1)	A person who fails to discharge the person's biosecurity duty under this Division is guilty of an offence.	17 18
(2)	An offence against this section is a category 1 offence if the failure is intentional or reckless.	19 20
(3)	In any other case, the offence is a category 2 offence.	21
(4)	A category 1 offence against this section is an executive liability offence.	22
33	Defence for failure to notify prohibited matter event that is well-known	23
	It is a defence to the prosecution of an offence under this Division if the person charged with the offence proves that the person did not notify the prohibited matter event because the person had good reason to believe that the particular circumstances that the person became aware of, or suspected, were widely and publicly known (including to the Department).	24 25 26 27 28
34	Protection against self-incrimination	29
(1)	Information furnished or an answer given by a natural person that the person was required to furnish or give to comply with a requirement under this Division is not admissible in evidence against the person in criminal proceedings, except proceedings for an obstruction offence.	30 31 32 33
(2)	Further information obtained as a result of information furnished or an answer given in compliance with a requirement under this Division is not inadmissible on the ground:	34 35 36
(a)	that the information had to be furnished or the answer had to be given, or	37
(b)	that the information furnished or answer given might incriminate the person.	38
35	Regulations relating to notifications	39
	The regulations may make further provision for notifications under this Division, including the following:	40 41
(a)	the person or persons to whom notification is to be given,	42
(b)	the form and manner in which notification is to be given,	43
(c)	the information required to be given,	44

(d)	requirements in relation to notifications (such as a requirement to provide further information or answer questions).	1 2
Division 4	Duty to prevent, eliminate or minimise risk posed by prohibited matter	3 4
36	Biosecurity duty	5
(1)	A person who becomes aware of, or suspects, the presence of biosecurity matter in a part of the State in which it is prohibited matter has a biosecurity duty to ensure that, so far as is reasonably practicable, the biosecurity risk posed or likely to be posed by the prohibited matter is prevented, eliminated or minimised.	6 7 8 9
(2)	A biosecurity duty arises under this Division only if the person:	10
(a)	is the owner, occupier or person in charge of, or has the care, custody or control of, premises, a carrier or other thing in relation to which the prohibited matter is present or suspected of being present, or	11 12 13
(b)	becomes aware of, or suspects, the presence of prohibited matter as a result of any consultation or other work carried out in relation to premises, a carrier or other thing in the person's professional capacity, or	14 15 16
(c)	is a person of a class prescribed by the regulations.	17
37	Offence of failing to discharge biosecurity duty	18
(1)	A person who fails to discharge the person's biosecurity duty under this Division is guilty of an offence.	19 20
(2)	An offence against this section is a category 1 offence if the failure is intentional or reckless.	21 22
(3)	In any other case, the offence is a category 2 offence.	23
(4)	A category 1 offence against this section is an executive liability offence.	24
Division 5	Duty to notify biosecurity events	25
38	Biosecurity duty	26
(1)	A person who becomes aware of, or suspects, the existence of a biosecurity event has a biosecurity duty to immediately notify the biosecurity event in accordance with the requirements specified in the regulations.	27 28 29
(2)	A biosecurity duty arises under this Division only if the person:	30
(a)	is the owner, occupier or person in charge of, or has the care, custody or control of, premises, a carrier or other thing in relation to which the biosecurity event has occurred, is occurring or is likely to occur, or	31 32 33
(b)	becomes aware of, or suspects, the biosecurity event as a result of any consultation or other work carried out in relation to premises, a carrier or other thing in the person's professional capacity, or	34 35 36
(c)	is a person of a class prescribed by the regulations.	37
39	Biosecurity event—meaning	38
(1)	A <i>biosecurity event</i> means something that has occurred, is occurring or is likely to occur and which has had, is having, or is likely to have, a significant biosecurity impact, other than a prohibited matter event.	39 40 41
(2)	A <i>biosecurity event</i> includes anything declared by the regulations to be a biosecurity event.	42 43

40	Offence of failing to discharge biosecurity duty to notify event	1
(1)	A person who fails to discharge the person's biosecurity duty under this Division is guilty of an offence.	2 3
(2)	An offence against this section is a category 1 offence if the failure is intentional or reckless.	4 5
(3)	In any other case, the offence is a category 2 offence.	6
(4)	A category 1 offence against this section is an executive liability offence.	7
41	Defence for failure to notify event that is well-known	8
	It is a defence to the prosecution of an offence under this Division if the person charged with the offence proves that the person did not notify the biosecurity event because the person had good reason to believe that the particular circumstances that the person became aware of, or suspected, were widely and publicly known (including to the Department).	9 10 11 12 13
42	Protection against self-incrimination	14
(1)	Information furnished or an answer given by a natural person that the person was required to furnish or give to comply with a requirement under this Division is not admissible in evidence against the person in criminal proceedings, except proceedings for an obstruction offence.	15 16 17 18
(2)	Further information obtained as a result of information furnished or an answer given in compliance with a requirement under this Division is not inadmissible on the ground:	19 20 21
(a)	that the information had to be furnished or the answer had to be given, or	22
(b)	that the information furnished or answer given might incriminate the person.	23
43	Regulations relating to notifications	24
	The regulations may make further provision for notifications under this Division, including the following:	25 26
(a)	the person or persons to whom notification is to be given,	27
(b)	the form and manner in which notification is to be given,	28
(c)	the information required to be given,	29
(d)	requirements in relation to notifications (such as a requirement to provide further information or answer questions).	30 31

Part 5	Emergency orders	1
Division 1	Emergency orders	2
44	Emergency order	3
(1)	The Secretary may, by order in writing (an <i>emergency order</i>):	4
(a)	declare a biosecurity emergency, and	5
(b)	establish measures to respond to that biosecurity emergency.	6
(2)	The Secretary may make an emergency order only if the Secretary is satisfied that, or reasonably suspects that, there is a current or imminent biosecurity risk that may have a significant biosecurity impact.	7 8 9
(3)	The principal objects of an emergency order are:	10
(a)	to isolate an emergency zone or biosecurity matter, and	11
(b)	to prevent the spread of the biosecurity matter, and	12
(c)	to eradicate the biosecurity matter (if practicable).	13
45	Content of emergency order	14
	An emergency order is to specify the following:	15
(a)	the biosecurity matter, biosecurity risk or biosecurity impact that is the subject of the emergency,	16 17
(b)	the emergency zone or zones,	18
(c)	the emergency measures,	19
(d)	the persons or class of persons to whom the emergency measures apply,	20
(e)	the duration of the emergency order.	21
46	Notice of emergency order	22
(1)	The Secretary is to give notice of an emergency order by causing a copy of the order to be published on the website of the Department or in the Gazette (or both).	23 24
(2)	The Secretary is to take reasonable steps to ensure that persons who are likely to be directly affected by the order are made aware of the order.	25 26
47	Notice of property specific order	27
(1)	The Secretary may, if the Secretary considers it appropriate in the circumstances, give notice of an emergency order that is property specific by causing a copy of the order to be served on the owner, occupier or person apparently in charge of the affected property (instead of by publishing the order on the website of the Department or in the Gazette).	28 29 30 31 32
(2)	An emergency order is <i>property specific</i> if it relates to specified premises, specified biosecurity matter or any other specified thing (each of which is <i>affected property</i>).	33 34
48	Duration of emergency order	35
(1)	An emergency order remains in force for the period specified in the order, not exceeding 6 months from the date the order is made.	36 37
(2)	The Secretary may, by making an order that amends an emergency order, extend the period during which an emergency order remains in force for a further period (not exceeding 6 months).	38 39 40

- (3) The period during which an emergency order remains in force may be extended any number of times. 1
2

Division 2 Matters for which emergency order may provide 3

49 Emergency zone 4

- (1) An *emergency zone* is the principal area or areas in relation to which, in the opinion of the Secretary, measures are required to be implemented under the emergency order. 5
6
7
- (2) An emergency zone may be: 8
- (a) any specified premises or specified part of premises, or 9
 - (b) any specified area, or 10
 - (c) the whole or any specified part of the State. 11
- (3) An emergency order may provide for more than one emergency zone and for different classes of emergency zone. 12
13

50 Emergency measures 14

- (1) The *emergency measures* are the measures that the Secretary establishes under an emergency order to respond to a biosecurity emergency. 15
16
- (2) The Secretary may specify, as emergency measures, any measures that the Secretary considers reasonably necessary to respond to the biosecurity emergency concerned, having regard to the principal objects of an emergency order. 17
18
19
- (3) The emergency measures are to be no more onerous than the Secretary considers necessary having regard to the nature of the biosecurity emergency. 20
21
- (4) The emergency measures may apply: 22
- (a) within an emergency zone, and 23
 - (b) outside an emergency zone, but only if the Secretary considers that reasonably necessary having regard to the principal objects of an emergency order. 24
25
- (5) The emergency measures may: 26
- (a) prohibit, regulate or control the doing of any thing, or 27
 - (b) require or authorise the doing of any thing. 28
- (6) A power to require the doing of a thing includes a power to require a person to arrange for that thing to be done. 29
30

51 Examples of emergency measures 31

- Without limiting the powers conferred on the Secretary by this Part, emergency measures may include provisions that prohibit, regulate or control, or that require or authorise, any of the following: 32
33
34
- (a) activities that involve biosecurity matter, a carrier or a potential carrier, 35
 - (b) the use of premises for an activity that involves biosecurity matter, a carrier or a potential carrier, 36
37
 - (c) the movement of any biosecurity matter, a carrier, a potential carrier or other thing, 38
39
 - (d) the isolation, confinement or detention of any biosecurity matter or other thing, 40
41
 - (e) treatment measures to be carried out in relation to biosecurity matter, a carrier, a potential carrier, premises or other thing, 42
43

(f)	the erection or repair of fencing, gates or any other method of enclosure, or the taking of any other specified security or containment measures in relation to any premises, biosecurity matter or other thing,	1 2 3
(g)	the erection of signs,	4
(h)	the provision of samples of any biosecurity matter or other thing,	5
(i)	the testing of any biosecurity matter or other thing,	6
(j)	the obtaining of a biosecurity certificate in relation to any biosecurity matter or other thing,	7 8
(k)	the installation or use of a device at any premises, for the purpose of detecting or monitoring the presence of any biosecurity matter or other thing or capturing any biosecurity matter or other thing,	9 10 11
(l)	the destruction, disposal or eradication of any biosecurity matter or other thing,	12 13
(m)	any other matters expressly authorised by the regulations.	14
52	Special powers	15
(1)	In addition, the emergency measures may do any of the following:	16
(a)	prohibit, regulate or control entry to or exit from any specified premises or area,	17 18
(b)	prohibit, regulate or control the use of any road within or going into or out of a specified premises or area (including by closing roads),	19 20
(c)	require persons entering or leaving any specified premises or area in a vehicle to stop and, if required by an authorised officer:	21 22
(i)	permit the vehicle to be inspected, and	23
(ii)	permit treatment measures to be carried out in relation to the vehicle,	24
(d)	require persons entering or leaving any specified premises or area to stop and, if required by an authorised officer:	25 26
(i)	permit themselves and any thing in their care, custody or control to be inspected, and	27 28
(ii)	carry out or permit external treatment measures to be carried out in relation to themselves and any thing in their care, custody or control,	29 30
(e)	prohibit a person from entering or leaving any specified premises or area unless the person has done either or both of the following:	31 32
(i)	carried out, in relation to himself or herself, any specified external treatment measure,	33 34
(ii)	carried out, in relation to any thing in the person's care, custody or control, any specified treatment measure.	35 36
(2)	An emergency order cannot prohibit, regulate or control the movement of a person, except as expressly provided for by this section.	37 38
(3)	Subsection (2) does not prevent emergency measures being imposed in relation to any biosecurity matter, premises, activity or thing that have an impact on the movement of a person but that are not imposed for the purpose of restricting the movement of a person.	39 40 41 42
	Note. For example, emergency measures could prohibit persons from taking a particular animal or plant out of premises. This measure may have an impact on the movement of a person but is not imposed for that purpose.	43 44 45

Division 3	Limitations that apply to emergency order	1
53	Treatment of persons	2
(1)	An emergency order cannot require any treatment measure to be carried out on a person, other than an external treatment measure.	3 4
(2)	An emergency order cannot require a person to provide samples of the person's blood, hair, saliva or any other body part or body fluid.	5 6
54	Inspection of persons	7
	A requirement in an emergency order that persons permit themselves to be inspected by an authorised officer authorises the authorised officer to require a person to do any of the following:	8 9 10
(a)	to submit to a visual inspection (including of the exterior of the person's clothing and shoes),	11 12
(b)	to shake, or otherwise move, the person's hair.	13
55	Destruction requirements	14
	An emergency order cannot require or authorise the destruction of biosecurity matter or any other thing unless the Secretary is of the opinion that it is reasonably necessary to prevent, eliminate or minimise a significant biosecurity impact.	15 16 17
56	Persons directly affected by destruction requirement to be advised of requirement	18
	If an emergency order requires or authorises the destruction of any biosecurity matter or other thing, the Secretary must ensure that a copy of the order is given to the owner or person in charge of the biosecurity matter or thing, unless:	19 20 21
(a)	there appears to be no one immediately in control of it, and the owner or person in charge cannot, after such search and inquiry as is reasonable in the circumstances, be located, and	22 23 24
(b)	the Secretary considers that, in the circumstances, the order must be carried out without prior notice to the owner or person in charge.	25 26
Division 4	Effect of order	27
57	Order prevails over other instruments	28
	An emergency order prevails, to the extent of any inconsistency, over the following:	29
(a)	the regulations,	30
(b)	any biosecurity registration, permit (other than an emergency permit) or exemption granted under this Act,	31 32
(c)	any control order,	33
(d)	any other instrument made or issued under this Act.	34
58	Offence of contravening emergency order	35
(1)	A person who contravenes an emergency order is guilty of an offence.	36
(2)	An offence against this section is a category 1 offence if the contravention is intentional or reckless.	37 38
(3)	In any other case, the offence is a category 2 offence.	39
(4)	A category 1 offence against this section is a special executive liability offence.	40

(5)	A person who is guilty of a category 1 offence or category 2 offence against this section because the person contravenes a requirement of an emergency order:	1
		2
(a)	continues, until the requirement is complied with and despite the fact that any specified period or time for compliance has expired or passed, to be liable to comply with the requirement, and	3
		4
		5
(b)	is guilty of a continuing offence (of the same category) for each day the contravention continues.	6
		7
(6)	Subsection (5) does not apply to the extent that a requirement of an emergency order is revoked.	8
		9
(7)	A person does not commit an offence against this section of contravening an emergency order unless:	10
		11
(a)	the order was published on the website of the Department or in the Gazette, or	12
(b)	the person was served with a copy of the order.	13
59	Secretary may authorise required actions and recover costs	14
(1)	If a person (the <i>liable person</i>) fails to comply with an emergency order, the Secretary may authorise any person to enter premises and take any actions in relation to those premises or any thing on those premises that the liable person is required to take by the order or that are otherwise necessary to remedy that failure.	15
		16
		17
		18
(2)	The Secretary may charge the liable person a fee for action taken under this section.	19
(3)	The fee is to be no more than is reasonable to cover the costs and expenses incurred by or on behalf of the Secretary in taking the action.	20
		21
(4)	The fee is:	22
(a)	a recoverable amount that is payable to the Secretary, and	23
(b)	recoverable from the liable person.	24
	Note. See Part 20, which provides for the recovery of recoverable amounts.	25
(5)	The Secretary must give an occupier of premises used for residential purposes written notice of an intention to enter any part of the premises used only for residential purposes under this section.	26
		27
		28
(6)	The notice must specify the day on which the premises are intended to be entered and must be given before that day.	29
		30
(7)	Notice is not required to be given if:	31
(a)	entry is made with the consent of the occupier of the premises, or	32
(b)	entry is made under the authority of a search warrant.	33
(8)	This section does not prevent the taking of proceedings for an offence of contravening an emergency order.	34
		35
Division 5	General	36
60	Amendment or revocation of emergency order	37
(1)	The Secretary may, by order in writing, amend or revoke an emergency order.	38
(2)	An amendment to an emergency order may make provision for any matter for which an emergency order may make provision.	39
		40
(3)	An amendment to, or revocation of, an emergency order takes effect, and is to be notified, in the same way as an emergency order.	41
		42

61	Protection of emergency actions	1
(1)	A court or tribunal must not issue an interim injunction, make any other interim order or give any other interim relief having the effect of preventing, restricting or deferring any emergency order or anything authorised or required to be done pursuant to an emergency order during the period in which the order has effect.	2 3 4 5
(2)	This section does not prevent a court from making a permanent injunction or other final order in any proceedings at any time.	6 7

Part 6	Control orders	1
Division 1	Control orders	2
62	Control order	3
(1)	The Secretary may, by order in writing (a <i>control order</i>):	4
(a)	establish one or more control zones, and	5
(b)	establish measures, in connection with a control zone, to prevent, eliminate, minimise or manage a biosecurity risk or biosecurity impact.	6 7
(2)	The Secretary may make a control order if the Secretary reasonably believes that the order is necessary to prevent, eliminate, minimise or manage a biosecurity risk or biosecurity impact.	8 9 10
(3)	The principal object of a control order is to eradicate biosecurity matter that poses or is likely to pose a biosecurity risk.	11 12
(4)	A control order may also serve as a measure for the short term management of a biosecurity risk or biosecurity impact. In that case, an additional or alternative object of the control order is to provide for the management of a biosecurity risk or biosecurity impact.	13 14 15 16
63	Content of control order	17
	A control order is to specify the following:	18
(a)	the biosecurity matter, biosecurity risk or biosecurity impact to which the control order relates,	19 20
(b)	the control zone or zones,	21
(c)	the control measures,	22
(d)	the persons or class of persons to whom the control measures apply,	23
(e)	the duration of the control order.	24
64	Notice of control order	25
(1)	The Secretary is to give notice of a control order by causing a copy of the order to be published on the website of the Department or in the Gazette (or both).	26 27
(2)	The Secretary is to take reasonable steps to ensure that persons who are likely to be directly affected by the order are made aware of the order.	28 29
65	Notice of property specific order	30
(1)	The Secretary may, if the Secretary considers it appropriate in the circumstances, give notice of a control order that is property specific by causing a copy of the order to be served on the owner, occupier or person apparently in charge of the affected property (instead of by publishing the order on the website of the Department or in the Gazette).	31 32 33 34 35
(2)	A control order is <i>property specific</i> if it relates to specified premises, specified biosecurity matter or any other specified thing (each of which is <i>affected property</i>).	36 37
66	Duration of control order	38
(1)	A control order has effect for the period specified by the Secretary in the order, not exceeding 5 years from the date the order is made.	39 40

- (2) The Secretary may, by making an order that amends a control order, extend the period during which a control order has effect for a further period (not exceeding 5 years). 1
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- (3) The period during which a control order has effect may be extended any number of times. 4
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Division 2 Matters for which control order may provide 6

67 Control zone 7

- (1) A *control zone* is the principal area or areas in relation to which, in the opinion of the Secretary, measures are required to be implemented under the control order. 8
9
- (2) A control zone may be: 10
 - (a) any specified premises or specified part of premises, or 11
 - (b) any specified area, or 12
 - (c) the whole or any specified part of the State. 13
- (3) A control order may provide for more than one control zone and for different classes of control zone. 14
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68 Control measures 16

- (1) The *control measures* are the measures that the Secretary establishes under a control order to prevent, eliminate, minimise or manage the biosecurity risk or biosecurity impact to which the order relates. 17
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- (2) The Secretary may specify, as control measures under a control order, any measures that the Secretary considers reasonably necessary to prevent, eliminate, minimise or manage the biosecurity risk or biosecurity impact to which the order relates, having regard to the objects of a control order. 20
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- (3) The control measures are to be no more onerous than the Secretary considers necessary having regard to the nature of the biosecurity risk or biosecurity impact to which the order relates. 24
25
26
- (4) The control measures may apply: 27
 - (a) within a control zone, and 28
 - (b) outside a control zone, but only if the Secretary considers that reasonably necessary having regard to the objects of the control order. 29
30
- (5) The control measures may: 31
 - (a) prohibit, regulate or control the doing of any thing, or 32
 - (b) require or authorise the doing of any thing. 33
- (6) A power to require the doing of a thing includes a power to require a person to arrange for that thing to be done. 34
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69 Examples of control measures 36

- Without limiting the powers conferred on the Secretary by this Part, control measures may include provisions that prohibit, regulate or control, or that require or authorise, any of the following: 37
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39
- (a) activities that involve biosecurity matter, a carrier or a potential carrier, 40
 - (b) the use of premises for an activity that involves biosecurity matter, a carrier or a potential carrier, 41
42
 - (c) the movement of any biosecurity matter or other thing, 43

- (d) the isolation, confinement or detention of any biosecurity matter or other thing, 1
2
- (e) treatment measures to be carried out in relation to biosecurity matter, premises or other thing, 3
4
- (f) the erection or repair of fencing, gates or any other method of enclosure, or the taking of any other specified security or containment measures in relation to any premises, biosecurity matter or other thing, 5
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7
- (g) the erection of signs, 8
- (h) the provision of samples of any biosecurity matter or other thing, 9
- (i) the testing of any biosecurity matter or other thing, 10
- (j) the obtaining of a biosecurity certificate in relation to biosecurity matter or any other thing, 11
12
- (k) the installation or use of a device at any premises, for the purpose of detecting or monitoring the presence of any biosecurity matter or other thing or capturing any biosecurity matter or other thing, 13
14
15
- (l) the destruction, disposal or eradication of any biosecurity matter or other thing, 16
17
- (m) any other matters expressly authorised by the regulations. 18

Division 3 Limitations that apply to control order 19

70 Detention or treatment of persons 20

- (1) A control order cannot: 21
 - (a) prohibit, regulate or control the movement of a person, or 22
 - (b) require any treatment measure to be carried out on a person. 23
 - (2) A control order cannot require a person to provide samples of the person's blood, hair, saliva or any other body part or body fluid. 24
25
 - (3) Subsection (1) (a) does not prevent a control measure being imposed in relation to any biosecurity matter, premises, area, activity or thing that has an impact on the movement of a person but is not imposed for the purpose of restricting the movement of a person. 26
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- Note.** For example, a control measure cannot prohibit a person from leaving premises but could prohibit a person from taking a particular animal out of premises. This measure may have an impact on the movement of a person but is not imposed for that purpose. 30
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32

71 Destruction requirements 33

- (1) A control order cannot require or authorise the destruction of a thing unless: 34
 - (a) the thing is, or is reasonably suspected of being, prohibited matter, or 35
 - (b) the thing is a carrier of, or reasonably suspected of being a carrier of, prohibited matter, or 36
37
 - (c) the thing is a pest to which the control order relates, or 38
 - (d) the thing is, or is reasonably suspected of being, infected or infested with, or harbouring, the biosecurity matter to which the control order relates and there are no other reasonably practicable treatment measures that could eliminate or minimise the biosecurity risk posed by the biosecurity matter, or 39
40
41
42
 - (e) the thing is, or is reasonably suspected of being:
 - (i) abandoned, and 43
44

(ii)	biosecurity matter to which the control order relates or a carrier of biosecurity matter to which the control order relates.	1 2
(2)	In this section: <i>reasonably practicable</i> means reasonably practicable in the opinion of the Secretary or an authorised officer. <i>reasonably suspected</i> means reasonably suspected by the Secretary or an authorised officer.	3 4 5 6 7
72	Interaction of powers with restrictions imposed by other Acts	8
(1)	The Secretary must not, in a control order, require the destruction of any living thing that is protected fauna or a protected native plant within the meaning of the <i>National Parks and Wildlife Act 1974</i> , except after consultation with the head of the government agency responsible for the administration of that Act.	9 10 11 12
(2)	The Secretary must not, in a control order, require the destruction of any living thing that is a threatened species within the meaning of the <i>Threatened Species Conservation Act 1995</i> , except after consultation with the head of the government agency responsible for the administration of that Act.	13 14 15 16
(3)	The Secretary must not, in a control order, require the clearing of any native vegetation within the meaning of the <i>Native Vegetation Act 2003</i> , except after consultation with the head of the government agency responsible for the administration of that Act.	17 18 19 20
(4)	The Secretary must not, in a control order, require harm (within the meaning of the <i>Heritage Act 1977</i>) to any building, work, relic, moveable object or place the subject of an interim heritage order or listing on the State Heritage Register under that Act, except after consultation with the head of the government agency responsible for the administration of that Act.	21 22 23 24 25
(5)	A failure to comply with this section does not affect the validity of a control order.	26
Division 4	Effect of control order	27
73	Offence of contravening control order	28
(1)	A person who contravenes a control order is guilty of an offence.	29
(2)	An offence against this section is a category 2 offence.	30
(3)	An offence against this section is an executive liability offence.	31
(4)	A person who is guilty of an offence against this section because the person contravenes a requirement of a control order:	32 33
(a)	continues, until the requirement is complied with and despite the fact that any specified period or time for compliance has expired or passed, to be liable to comply with the requirement, and	34 35 36
(b)	is guilty of a continuing offence for each day the contravention continues.	37
(5)	Subsection (4) does not apply to the extent that a requirement of a control order is revoked.	38 39
(6)	A person does not commit an offence against this section of contravening a control order unless:	40 41
(a)	the order was published on the website of the Department or in the Gazette, or	42
(b)	the person was served with a copy of the order.	43

74 Secretary may authorise required actions and recover costs	1
(1) If a person (the <i>liable person</i>) fails to comply with a control order, the Secretary may authorise any person to enter premises and take any actions in relation to those premises or any thing on those premises that the liable person is required to take by the order or that are otherwise necessary to remedy that failure.	2 3 4 5
(2) The Secretary may charge the liable person a fee for action taken under this section.	6
(3) The fee is to be no more than is reasonable to cover the costs and expenses incurred by or on behalf of the Secretary in taking the action.	7 8
(4) The fee is:	9
(a) a recoverable amount that is payable to the Secretary, and	10
(b) recoverable from the liable person.	11
Note. See Part 20, which provides for the recovery of recoverable amounts.	12
(5) The Secretary must give an occupier of premises used for residential purposes written notice of an intention to enter any part of the premises used only for residential purposes under this section.	13 14 15
(6) The notice must specify the day on which the premises are intended to be entered and must be given before that day.	16 17
(7) Notice is not required to be given if:	18
(a) entry is made with the consent of the occupier of the premises, or	19
(b) entry is made under the authority of a search warrant.	20
(8) This section does not prevent the taking of proceedings for an offence of contravening a control order.	21 22
Division 5 General	23
75 Amendment or revocation of control order	24
(1) The Secretary may, by order in writing, amend or revoke a control order.	25
(2) An amendment to a control order may make provision for any matter for which a control order may make provision.	26 27
(3) An amendment to, or revocation of, a control order takes effect, and is to be notified, in the same way as a control order.	28 29

Part 7	Biosecurity zones	1
Division 1	Biosecurity zones	2
76	Biosecurity zones	3
(1)	The regulations may establish one or more biosecurity zones for the purpose of preventing, eliminating, minimising or managing a biosecurity risk or biosecurity impact.	4 5 6
(2)	The principal object of a biosecurity zone regulation is to provide for the long term management of a biosecurity risk or biosecurity impact.	7 8
77	Matters to be specified	9
	A biosecurity zone regulation is to specify the following:	10
(a)	the biosecurity matter, biosecurity risk or biosecurity impact in relation to which the biosecurity zone is established,	11 12
(b)	the biosecurity zone or zones,	13
(c)	the regulatory measures,	14
(d)	the persons or class of persons to whom those measures apply.	15
Division 2	Matters for which regulations may provide	16
78	Biosecurity zone	17
(1)	A <i>biosecurity zone</i> may be:	18
(a)	any specified premises or specified part of premises, or	19
(b)	any specified area, or	20
(c)	the whole or any specified part of the State.	21
(2)	The regulations may provide for more than one biosecurity zone and for different classes of biosecurity zone.	22 23
79	Regulatory measures	24
(1)	The <i>regulatory measures</i> are the measures to be implemented for the purpose of preventing, eliminating, minimising or managing a biosecurity risk or biosecurity impact.	25 26 27
(2)	The regulatory measures may apply within or outside a biosecurity zone.	28
(3)	The regulatory measures may:	29
(a)	prohibit, regulate or control the doing of any thing, or	30
(b)	require or authorise the doing of any thing.	31
(4)	A power to require the doing of a thing includes a power to require a person to arrange for that thing to be done.	32 33
	Note. The regulatory measures can be disallowed by either House of Parliament under section 41 of the <i>Interpretation Act 1987</i> .	34 35
80	Examples of regulatory measures	36
	Without limiting the power to make regulations conferred by this Part, the regulatory measures may include provisions that prohibit, regulate or control, or that require or authorise, any of the following:	37 38 39
(a)	activities that involve biosecurity matter, a carrier or a potential carrier,	40

- (b) the use of premises for an activity that involves biosecurity matter, a carrier or a potential carrier, 1
2
- (c) the movement of any biosecurity matter or other thing, 3
- (d) the isolation, confinement or detention of any biosecurity matter or other thing, 4
5
- (e) the treatment measures to be carried out in relation to any biosecurity matter, premises or other thing, 6
7
- (f) the erection or repair of fencing, gates or any other method of enclosure, or the taking of any other specified security or containment measures in relation to any premises, biosecurity matter or other thing, 8
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10
- (g) the erection of signs, 11
- (h) the provision of samples of any biosecurity matter or other thing, 12
- (i) the testing of any biosecurity matter or other thing, 13
- (j) the obtaining of a biosecurity certificate in relation to any biosecurity matter or any other thing, 14
15
- (k) the installation or use of a device at any premises, for the purpose of detecting or monitoring the presence of any biosecurity matter or other thing or capturing any biosecurity matter or other thing, 16
17
18
- (l) the destruction, disposal or eradication of any biosecurity matter or other thing. 19
20

Division 3 Limitations on regulation-making power 21

81 Detention or treatment of persons 22

- (1) A biosecurity zone regulation cannot: 23
 - (a) prohibit, regulate or control the movement of a person, or 24
 - (b) require treatment measures to be carried out on any person. 25
 - (2) A biosecurity zone regulation cannot require a person to provide samples of the person's blood, hair, saliva or any other body part or body fluid. 26
27
 - (3) Subsection (1) (a) does not prevent a biosecurity zone regulation being imposed in relation to any biosecurity matter, premises, area, activity or thing that has an impact on the movement of a person but is not imposed for the purpose of restricting the movement of a person. 28
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31
- Note.** For example, a regulatory measure cannot prohibit a person from leaving premises but could prohibit a person from taking a particular animal or plant out of premises. This measure may have an impact on the movement of a person, but is not imposed for that purpose. 32
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34

82 Destruction requirements 35

- (1) A biosecurity zone regulation cannot require or authorise the destruction of a thing unless: 36
37
 - (a) the thing is, or is reasonably suspected of being, prohibited matter, or 38
 - (b) the thing is a carrier of, or reasonably suspected of being a carrier of, prohibited matter, or 39
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 - (c) the thing is a pest to which the biosecurity zone relates, or 41
 - (d) the thing is, or is reasonably suspected of being, infected or infested with, or of harbouring, the biosecurity matter to which the regulations relate and there are no other reasonably practicable treatment measures that could eliminate or minimise the biosecurity risk posed by the biosecurity matter, or 42
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(e)	the thing is, or is reasonably suspected of being:	1
(i)	abandoned, and	2
(ii)	biosecurity matter to which the regulations relate or a carrier of biosecurity matter to which the regulations relate.	3
(2)	In this section:	5
	<i>reasonably practicable</i> means reasonably practicable in the opinion of the Secretary or an authorised officer.	6
	<i>reasonably suspected</i> means reasonably suspected by the Secretary or an authorised officer.	7
83	Consultation requirements	10
(1)	The Minister is not to recommend to the Governor the making of a biosecurity zone regulation that would authorise or require the destruction of any living thing that is protected fauna or a protected native plant within the meaning of the <i>National Parks and Wildlife Act 1974</i> unless the Minister has certified that he or she consulted with the Minister administering that Act before recommending the making of the regulation.	11
(2)	The Minister is not to recommend to the Governor the making of a biosecurity zone regulation that would authorise or require the destruction of any living thing that is threatened species within the meaning of the <i>Threatened Species Conservation Act 1995</i> unless the Minister has certified that he or she consulted with the Minister administering that Act before recommending the making of the regulation.	12
(3)	The Minister is not to recommend to the Governor the making of a biosecurity zone regulation that would authorise or require the clearing of any native vegetation within the meaning of the <i>Native Vegetation Act 2003</i> unless the Minister has certified that he or she consulted with the Minister administering that Act before recommending the making of the regulation.	13
(4)	The Minister is not to recommend to the Governor the making of a biosecurity zone regulation that would authorise or require harm (within the meaning of the <i>Heritage Act 1977</i>) to any building, work, relic, moveable object or place the subject of an interim heritage order or listing on the State Heritage Register under that Act unless the Minister has certified that he or she consulted with the Minister administering that Act before recommending the making of the regulation.	14
(5)	A failure to comply with this section does not affect the validity of any regulation.	15
Division 4	Effect of biosecurity zone	16
84	Offence of contravening biosecurity zone regulation	17
(1)	A person who contravenes any biosecurity zone regulation is guilty of an offence.	18
(2)	An offence against this section is a category 2 offence.	19
(3)	An offence against this section is an executive liability offence.	20
(4)	A person who is guilty of an offence against this section because the person contravenes a requirement of a biosecurity zone regulation:	21
(a)	continues, until the requirement is complied with and despite the fact that any specified period or time for compliance has expired or passed, to be liable to comply with the requirement, and	22
(b)	is guilty of a continuing offence for each day the contravention continues.	23
(5)	Subsection (4) does not apply to the extent that a requirement of a biosecurity zone regulation is revoked.	24

85 Secretary may authorise required actions and recover costs	1
(1) If a person (the <i>liable person</i>) fails to comply with a biosecurity zone regulation, the Secretary may authorise any person to enter premises and take any actions in relation to those premises or any thing on those premises that the liable person is required to take by the regulation or that are otherwise necessary to remedy that failure.	2 3 4 5
(2) The Secretary may charge the liable person a fee for action taken under this section.	6
(3) The fee is to be no more than is reasonable to cover the costs and expenses incurred by or on behalf of the Secretary in taking the action.	7 8
(4) The fee is:	9
(a) a recoverable amount that is payable to the Secretary, and	10
(b) recoverable from the liable person.	11
Note. See Part 20, which provides for the recovery of recoverable amounts.	12
(5) The Secretary must give an occupier of premises used for residential purposes written notice of an intention to enter any part of the premises used only for residential purposes under this section.	13 14 15
(6) The notice must specify the day on which the premises are intended to be entered and must be given before that day.	16 17
(7) Notice is not required to be given if:	18
(a) entry is made with the consent of the occupier of the premises, or	19
(b) entry is made under the authority of a search warrant.	20
(8) This section does not prevent the taking of proceedings for an offence of contravening a biosecurity zone regulation.	21 22

Part 8 Powers of authorised officers	1
Division 1 Preliminary	2
86 Purposes for which functions under Part may be exercised	3
(1) An authorised officer may exercise the functions conferred by this Part for any of the following purposes:	4
(a) for the purpose of investigating, monitoring and enforcing compliance with the requirements imposed by or under this Act,	5
(b) for the purpose of obtaining information or records for purposes connected with the administration of this Act,	6
(c) if the authorised officer is a biosecurity auditor, for the purpose of exercising functions in connection with a biosecurity audit,	7
(d) for the purpose of assisting a biosecurity auditor to exercise the biosecurity auditor's functions in connection with a biosecurity audit,	8
(e) for the purpose of preventing, eliminating, minimising or managing biosecurity risks or suspected biosecurity risks,	9
(f) for the purpose of preventing, managing or controlling a biosecurity impact,	10
(g) for the purpose of enforcing, administering or executing this Act (including any instrument made under this Act).	11
(2) In this Part, a reference to an <i>authorised purpose</i> is a reference to any purpose referred to in subsection (1).	12
87 References to functions exercisable "in the case of an emergency"	13
(1) A provision of this Part that enables an authorised officer to exercise a function <i>in the case of an emergency</i> enables the authorised officer to exercise that function if:	14
(a) the authorised officer is required or authorised to exercise the function under an emergency order, or	15
(b) the authorised officer otherwise reasonably believes it is necessary to exercise the function because:	16
(i) a biosecurity emergency has occurred, is occurring or is imminent, or	17
(ii) the authorised officer reasonably suspects a biosecurity emergency has occurred, is occurring or is imminent.	18
(2) A function under this Part is taken to have been exercised <i>in the case of an emergency</i> if it is exercised by an authorised officer in the circumstances referred to in subsection (1).	19
(3) The fact that this Part enables an authorised officer to exercise certain functions only in the case of an emergency does not prevent an authorised officer from exercising any other function conferred by this Part in the case of an emergency.	20
Division 2 Information gathering powers	21
88 Exercise in conjunction with other powers	22
A power conferred by this Division may be exercised whether or not a power of entry under Division 3 is being exercised.	23

89 Powers of authorised officers to require information and records	1
(1) An authorised officer may, by notice in writing given to a person, require the person to furnish to the officer such information or records (or both) as he or she may require for an authorised purpose.	2 3 4
(2) A notice under this Division must specify the manner in which information or records are required to be furnished and a reasonable time by which the information or records are required to be furnished.	5 6 7
(3) A notice under this Division may only require a person to furnish existing records that are in the person's possession or that are within the person's power to obtain lawfully.	8 9 10
(4) The person to whom any record is furnished under this Division may take copies of it.	11
(5) If any record required to be furnished under this Division is in electronic, mechanical or other form, the notice requires the record to be furnished in written form, unless the notice otherwise provides.	12 13 14
90 Power of authorised officers to require answers	15
(1) An authorised officer may require a person whom the authorised officer suspects on reasonable grounds to have knowledge of matters in respect of which information is reasonably required for an authorised purpose to answer questions in relation to those matters.	16 17 18 19
(2) An authorised officer may, by notice in writing, require a corporation to nominate, in writing within the time specified in the notice, a director or officer of the corporation to be the corporation's representative for the purpose of answering questions under this section.	20 21 22 23
(3) Answers given by a person nominated under subsection (2) bind the corporation.	24
(4) An authorised officer may, by notice in writing, require a person to attend at a specified place and time to answer questions under this section if attendance at that place is reasonably required in order that the questions can be properly put and answered.	25 26 27 28
(5) The place and time at which a person may be required to attend under subsection (4) is to be:	29 30
(a) a place or time nominated by the person, or	31
(b) if the place and time nominated is not reasonable in the circumstances or a place and time is not nominated by the person, a place and time nominated by the authorised officer that is reasonable in the circumstances.	32 33 34
91 Recording of evidence	35
(1) An authorised officer may cause any questions and answers to questions given under this Division to be recorded if the officer has informed the person who is to be questioned that the record is to be made.	36 37 38
(2) A record may be made using sound recording apparatus or audio visual apparatus, or any other method determined by the authorised officer.	39 40
(3) A copy of any such record must be provided by the authorised officer to the person who is questioned as soon as practicable after it is made.	41 42
(4) A record may be made under this section despite the provisions of any other law.	43

92	Power of authorised officers to demand name and address	1
(1)	An authorised officer may require a person whom the authorised officer suspects on reasonable grounds to have committed, or to be committing, an offence against this Act or the regulations to state the person's full name and residential address.	2 3 4
(2)	An authorised officer may request a person who is required under this section to state the person's full name and residential address to provide proof of the name and address. It is not an offence to fail to comply with any such request.	5 6 7
93	Requiring information in the case of an emergency	8
(1)	A person is not excused from a requirement made by an authorised officer to furnish records or information or to answer a question on the ground that the record, information or answer might incriminate the person or make the person liable to a penalty if:	9 10 11 12
(a)	the authorised officer makes the requirement in the case of an emergency, and	13
(b)	the authorised officer warns the person that the authorised officer is making the requirement in the case of an emergency.	14 15
(2)	However, any information furnished (other than a record) or answer given by a natural person in compliance with a requirement under this Part is not admissible in evidence against the person in criminal proceedings (except proceedings for an obstruction offence) if:	16 17 18 19
(a)	the person objected at the time to doing so on the ground that it might incriminate the person, or	20 21
(b)	the person was not warned on that occasion that the person may object to furnishing the information or giving the answer on the ground that it might incriminate the person.	22 23 24
(3)	Any record furnished by a person in compliance with a requirement under this Part is not inadmissible in evidence against the person in criminal proceedings on the ground that the record might incriminate the person.	25 26 27
(4)	Further information obtained as a result of a record or information furnished or of an answer given in compliance with a requirement under this Part is not inadmissible on the ground:	28 29 30
(a)	that the record or information had to be furnished or the answer had to be given, or	31 32
(b)	that the record or information furnished or answer given might incriminate the person.	33 34
(5)	This section extends to a requirement to state a person's name and address.	35
Division 3	Entry to premises	36
94	Powers of authorised officers to enter premises	37
(1)	An authorised officer may enter any premises:	38
(a)	at any reasonable time, or	39
(b)	in the case of an emergency, at any time.	40
(2)	A power to enter premises conferred by this Act authorises entry by foot, by vehicle, vessel or aircraft or by any other means.	41 42
(3)	Entry may be effected under this Act with the use of reasonable force.	43
(4)	Entry to any premises may be effected with or without the authority of a search warrant.	44 45

95	Entry into residential premises only with permission or warrant	1
	This Division does not empower an authorised officer to enter any part of premises used only for residential purposes without the permission of the occupier or the authority of a search warrant.	2 3 4
96	Search warrants	5
(1)	An authorised officer under this Act may apply to an issuing officer for the issue of a search warrant if the authorised officer believes on reasonable grounds that:	6 7
(a)	a requirement imposed by or under this Act is being or has been contravened at any premises, or	8 9
(b)	there is, in or on any premises, matter or a thing that is connected with an offence under this Act or the regulations.	10 11
(2)	An issuing officer to whom such an application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an authorised officer named in the warrant:	12 13 14
(a)	to enter the premises, and	15
(b)	to exercise any function of an authorised officer under this Part.	16
(3)	Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> applies to a search warrant issued under this section.	17 18
(4)	In this section: <i>issuing officer</i> means an authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	19 20 21
97	Power to require occupier to provide assistance	22
	An authorised officer proposing to exercise a power of entry under this Division may, by notice in writing given to the owner or occupier of the premises, require the owner or occupier to provide such reasonable assistance and facilities as are specified in the notice within a specified time and in a specified manner.	23 24 25 26
Division 4	Investigation and risk management powers	27
98	Powers that can be exercised on premises	28
(1)	An authorised officer may, at any premises lawfully entered, do anything that in the opinion of the authorised officer is necessary to be done for an authorised purpose, including (but not limited to) the things specified in subsection (2).	29 30 31
(2)	An authorised officer may do any or all of the following:	32
(a)	examine and inspect any thing,	33
(b)	take and remove samples of a thing,	34
(c)	make any examinations, inquiries or tests that the authorised officer considers necessary,	35 36
(d)	carry out any treatment measures in relation to any biosecurity matter, carrier, potential carrier, premises or other thing,	37 38
(e)	isolate, confine or detain any biosecurity matter or other thing,	39
(f)	erect or repair fencing, gates or any other method of enclosure, or carry out any other security or containment measures in relation to any premises, biosecurity matter or other thing,	40 41 42
(g)	erect signs,	43
(h)	move any biosecurity matter or other thing,	44

(i)	install or use a device for the purpose of detecting or monitoring the presence of any biosecurity matter or other thing,	1 2
(j)	install devices for the purpose of capturing any biosecurity matter or other thing,	3 4
(k)	take any photographs or other recordings that the authorised officer considers necessary,	5 6
(l)	require records to be produced for inspection,	7
(m)	examine and inspect any records,	8
(n)	copy any records,	9
(o)	seize any biosecurity matter or other thing that the authorised officer has reasonable grounds for believing poses a biosecurity risk,	10 11
(p)	seize any thing that the authorised officer has reasonable grounds for believing is connected with an offence against this Act or the regulations,	12 13
(q)	direct the occupier of the premises where a thing is seized to retain it at those premises or at another place under the control of the occupier,	14 15
(r)	destroy, dispose of or eradicate any biosecurity matter or other thing,	16
(s)	do anything else authorised by or under this Act.	17
(3)	The power to examine and inspect any thing includes a power to use reasonable force to break open or otherwise access a container or other thing being used, or suspected of being used, to hold or contain another thing.	18 19 20
(4)	The power to seize any thing connected with an offence includes a power to seize:	21
(a)	a thing with respect to which the offence has been committed, and	22
(b)	a thing that will afford evidence of the commission of the offence, and	23
(c)	a thing that was used for the purpose of committing the offence.	24
(5)	The power to do a thing under this section includes a power to arrange for that thing to be done.	25 26
(6)	A power to do something under this section in relation to a thing may be exercised without the consent of the owner of the thing.	27 28
(7)	In this section, a reference to an offence includes a reference to an offence that there are reasonable grounds for believing has been committed.	29 30
99	Requiring assistance	31
(1)	An authorised officer may require the owner or occupier of premises, or any person in or on premises (other than a public place), to provide any reasonable assistance that the authorised officer specifies for the purposes of exercising the authorised officer's functions under this Division in relation to those premises.	32 33 34 35
(2)	The requirement may be made in the form of a direction that is given orally to the person or by notice in writing served on the person.	36 37
(3)	The direction may, for example, require the person:	38
(a)	to confine or move any animal under the care, custody or control of the person, or	39 40
(b)	to provide any facilities, including yards and crushes, that the authorised officer requires to inspect, examine, treat or take samples from any biosecurity matter, carrier, potential carrier or other thing, or	41 42 43
(c)	to restrain any domestic animal.	44

100	Recovery of fee for action taken	1
(1)	The Secretary may charge a person (the <i>liable person</i>) a fee for any action taken by an authorised officer under a power conferred by this Division if, in the opinion of the Secretary, it is reasonable to do so having regard to the following:	2 3 4
(a)	any biosecurity duty of the liable person under this Act,	5
(b)	any contravention or likely contravention by the liable person of a requirement imposed by or under this Act.	6 7
(2)	The fee is to be no more than is reasonable to cover the costs and expenses incurred by or on behalf of the Secretary in taking the action.	8 9
(3)	The fee is:	10
(a)	a recoverable amount that is payable to the Secretary, and	11
(b)	recoverable from the liable person.	12
	Note. See Part 20, which provides for the recovery of recoverable amounts and also provides for appeals to the Land and Environment Court against the decision to charge a fee.	13 14
	Division 5	
	Limitations on powers	15
101	Detention or treatment of persons	16
(1)	An authorised officer cannot do any of the following except as expressly authorised by an emergency order or under Part 9:	17 18
(a)	prohibit, regulate or control the movement of a person,	19
(b)	examine or inspect a person,	20
(c)	require a person to undergo treatment measures or require treatment measures to be carried out in relation to a person.	21 22
(2)	An authorised officer cannot:	23
(a)	require a person to submit to any testing, or	24
(b)	require a person to provide samples of the person's blood, hair, saliva or any other body part or body fluid.	25 26
(3)	Subsection (1) (a) does not prevent an authorised officer from doing any thing in relation to any biosecurity matter, premises, area, activity or thing that has an impact on the movement of a person but is not done for the purpose of restricting the movement of a person.	27 28 29 30
	Note. For example, an authorised officer could erect a fence on premises so as to isolate particular animals or plants from other animals or plants. This may have an impact on the movement of a person but is not done for that purpose.	31 32 33
102	Destruction requirements	34
(1)	An authorised officer cannot, under this Part, destroy a thing unless:	35
(a)	the thing is, or is reasonably suspected of being, prohibited matter, or	36
(b)	the thing is a pest, or	37
(c)	the thing is, or is reasonably suspected of being, infected or infested with, or of harbouring, biosecurity matter that poses a biosecurity risk and there are no other reasonably practicable treatment measures that could eliminate or minimise the biosecurity risk posed by the biosecurity matter, or	38 39 40 41
(d)	the destruction is expressly authorised or required by an emergency order, control order or biosecurity zone regulation.	42 43

(2)	In this section:	1
	<i>reasonably practicable</i> means reasonably practicable in the opinion of the authorised officer.	2
		3
	<i>reasonably suspected</i> means reasonably suspected by the authorised officer.	4
103	Persons directly affected by destruction to be advised of proposed destruction	5
(1)	An authorised officer must not destroy any biosecurity matter or any other thing in the exercise of a function under this Part unless:	6
		7
(a)	before taking that action, the authorised officer gives notice in writing of the proposed destruction to the owner or person in charge of the biosecurity matter or thing, or	8
		9
(b)	the authorised officer is satisfied that the owner or person in charge of the biosecurity matter or thing has already been given notice in writing of the proposed destruction.	11
		12
		13
(2)	Notice must be given at least 1 day before the function is exercised.	14
(3)	A requirement to give notice does not apply to the destruction of biosecurity matter or a thing if:	15
		16
(a)	there appears to be no one immediately in control of it, and the owner or person in charge cannot, after such search and inquiry as is reasonable in the circumstances, be located, and	17
		18
		19
(b)	the authorised officer considers that, in the circumstances, the function must be exercised without prior notice to the owner or person in charge.	20
		21
104	Interaction of powers with restrictions imposed by other Acts	22
(1)	An authorised officer must not, under this Part:	23
(a)	destroy any living thing that is protected fauna or a protected native plant within the meaning of the <i>National Parks and Wildlife Act 1974</i> , or	24
		25
(b)	destroy any living thing that is a threatened species within the meaning of the <i>Threatened Species Conservation Act 1995</i> , or	26
		27
(c)	clear any native vegetation within the meaning of the <i>Native Vegetation Act 2003</i> , or	28
		29
(d)	harm (within the meaning of the <i>Heritage Act 1977</i>) any building, work, relic, moveable object or place the subject of an interim heritage order or listing on the State Heritage Register under that Act.	30
		31
		32
(2)	This section does not limit the power of an authorised officer to do a thing where that action is expressly authorised or required by an emergency order, a control order or a biosecurity zone regulation.	33
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		35
Division 6	General	36
105	Offence of failing to comply with requirement made by authorised officer	37
(1)	A person who contravenes a requirement made of the person by an authorised officer exercising a power conferred by this Part is guilty of an offence.	38
		39
(2)	An offence against this section is a category 2 offence.	40
(3)	A person is not guilty of an offence of failing to comply with a requirement to furnish records or information or to answer a question unless the person was warned on that occasion that a failure to comply is an offence.	41
		42
		43

(4)	A person who is guilty of an offence against this section because the person contravenes a requirement made by an authorised officer to do or refrain from doing something:	1
		2
		3
(a)	continues, until the requirement is complied with and despite the fact that any specified period or time for compliance has expired or passed, to be liable to comply with the requirement, and	4
		5
		6
(b)	is guilty of a continuing offence for each day the contravention continues.	7
(5)	Subsection (4) does not apply to the extent that a requirement of an authorised officer is revoked.	8
		9
106	Defence to contravention	10
(1)	In proceedings in which a person is charged with an offence of contravening a requirement made of the person by an authorised officer exercising a function conferred by this Part, it is a defence to the prosecution of the offence if the person charged proves that the person had a reasonable excuse for the contravention concerned.	11
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		15
(2)	Subsection (1) does not apply to a requirement made under Division 2.	16
(3)	A requirement made under Division 2 does not affect the privilege against self-incrimination as it applies to a natural person, except where the authorised officer makes the requirement in the case of an emergency.	17
		18
		19
	Note. See section 93.	20
107	Care to be taken	21
	In the exercise of a power of entering or searching premises under this Part, or doing anything else on premises under this Act, an authorised officer must do as little damage as possible.	22
		23
		24
108	Compensation	25
(1)	The Secretary must compensate all interested parties for damage caused by an authorised officer in exercising a power to enter premises, or a power to break open or otherwise access a thing for the purposes of examination or inspection, but not any damage caused by the exercise of any other power.	26
		27
		28
		29
(2)	Subsection (1) does not apply if the occupier obstructed or hindered the authorised officer in the exercise of the power concerned.	30
		31
109	Revocation or variation of notices	32
(1)	A notice given under this Part may be revoked or varied by a subsequent notice or notices.	33
		34
(2)	Without limiting the above, a notice may be varied by extending the time for complying with the notice.	35
		36
(3)	A notice may be revoked or varied by the Secretary or by any authorised officer.	37

Part 9	Biosecurity directions	1
Division 1	Preliminary	2
110	Exercise in conjunction with other powers	3
	A power conferred by this Part to give a biosecurity direction may be exercised whether or not a power of entry under Part 8 is being exercised.	4 5
111	References to functions exercisable “in the case of an emergency”	6
(1)	A provision of this Part that enables an authorised officer to exercise a function <i>in the case of an emergency</i> enables the authorised officer to exercise that function if:	7 8
(a)	the authorised officer is required or authorised to exercise the function under an emergency order, or	9 10
(b)	the authorised officer otherwise reasonably believes it is necessary to exercise the function because:	11 12
(i)	a biosecurity emergency has occurred, is occurring or is imminent, or	13
(ii)	the authorised officer reasonably suspects a biosecurity emergency has occurred, is occurring or is imminent.	14 15
(2)	A function under this Part is taken to have been exercised <i>in the case of an emergency</i> if it is exercised by an authorised officer in the circumstances referred to in subsection (1).	16 17 18
(3)	The fact that this Part enables an authorised officer to exercise certain functions only in the case of an emergency does not prevent an authorised officer from exercising any other function conferred by this Part in the case of an emergency.	19 20 21
Division 2	Biosecurity directions	22
112	Power to issue biosecurity direction	23
(1)	An authorised officer may give a direction as authorised by this Part.	24
(2)	A direction under this Part is a <i>biosecurity direction</i> .	25
113	Types of biosecurity direction	26
(1)	A biosecurity direction may be given as a general biosecurity direction or an individual biosecurity direction.	27 28
(2)	A <i>general biosecurity direction</i> is a direction that applies to the public generally or to a specified class of persons (such as persons who engage in a specified activity, or who frequent particular premises).	29 30 31
(3)	An <i>individual biosecurity direction</i> is a direction that applies to a particular person.	32
114	Revocation or variation of biosecurity direction	33
(1)	A biosecurity direction may be revoked or varied by a subsequent biosecurity direction or directions.	34 35
(2)	Without limiting the above, a biosecurity direction may be varied by extending the time for complying with the direction.	36 37
(3)	A biosecurity direction may be revoked or varied by the Secretary or by any authorised officer.	38 39

Division 3	General biosecurity directions	1
115	Circumstances in which general biosecurity direction can be given	2
	An authorised officer may give a general biosecurity direction if the officer reasonably believes it is necessary to do so for any of the following purposes:	3
	(a) to prevent, eliminate or minimise a biosecurity risk,	4
	(b) to prevent, manage or control a biosecurity impact that has occurred, is occurring or is likely to occur,	5
	(c) to enforce, administer or execute this Act (including any instrument made under this Act).	6
116	How general biosecurity direction is given	7
(1)	An authorised officer may give a general biosecurity direction by publishing notice of the direction on the website of the Department or in the Gazette (or both).	8
(2)	An authorised officer may, in the case of an emergency, give a general biosecurity direction by displaying a copy of the direction in a prominent place in or adjacent to any premises to which, or in the vicinity of which, the direction applies.	9
(3)	If a general biosecurity direction is given in the manner referred to in subsection (2), notice of the direction is to be published on the website of the Department or in the Gazette (or both) as soon as practicable after it is made.	10
(4)	If an authorised officer gives a general biosecurity direction in the case of an emergency, the direction is to include a warning that the direction is being given in the case of an emergency.	11
(5)	A failure to comply with subsection (4) does not affect the validity of a biosecurity direction.	12
117	Contents of general biosecurity direction	13
(1)	An authorised officer may, in a general biosecurity direction, prohibit, regulate or control (absolutely or conditionally) the carrying out of any activity in connection with biosecurity matter, a carrier or a potential carrier.	14
(2)	An authorised officer may also, in a general biosecurity direction, do any of the following, but only in the case of an emergency:	15
	(a) prohibit, regulate or control entry to or exit from any specified premises or area,	16
	(b) prohibit, regulate or control the use of any road within or going into or out of a specified area or premises (including by closing roads).	17
	Note. See Division 5 for limitations on directions.	18
Division 4	Individual biosecurity directions	19
118	Circumstances in which individual biosecurity direction can be given	20
(1)	An authorised officer may give an individual biosecurity direction that prohibits, regulates or controls (absolutely or conditionally) the doing of anything by the person to whom the biosecurity direction is given if the authorised officer reasonably believes the direction is necessary for any of the following purposes:	21
	(a) to prevent the person from contravening or continuing to contravene a requirement imposed by or under this Act,	22
	(b) to prevent, eliminate or minimise a biosecurity risk,	23

(c)	to prevent, manage or control a biosecurity impact that has occurred, is occurring or is likely to occur,	1 2
(d)	to enforce, administer or execute this Act (including an instrument made under this Act).	3 4
(2)	An authorised officer may also give an individual biosecurity direction that requires a person to do anything if the authorised officer reasonably believes the direction is necessary for any of the following purposes:	5 6 7
(a)	to ensure the person discharges a biosecurity duty of the person under this Act,	8
(b)	to ensure that the person remedies a contravention, suspected contravention or likely contravention by the person of a requirement imposed by or under this Act,	9 10 11
(c)	to prevent, eliminate, minimise or manage a biosecurity risk posed by a dealing of the person, or suspected dealing of the person, with biosecurity matter, a carrier or a potential carrier,	12 13 14
(d)	to enforce, administer or execute this Act (including an instrument made under this Act).	15 16
	Note. See Division 5 for limitations on directions.	17
119	How individual biosecurity direction is given	18
(1)	An authorised officer may give an individual biosecurity direction by giving the direction to the person the subject of the direction orally (in person) or by notice in writing served on the person.	19 20 21
(2)	An authorised officer may, in the case of an emergency, give an individual biosecurity direction to an occupier of premises by displaying notice of the direction in a prominent place in or adjacent to the premises.	22 23 24
(3)	Written confirmation of any individual biosecurity direction that is given orally or in the manner referred to in subsection (2) is to be served on the person the subject of the direction within 7 days after it is so given, unless the direction has already been complied with.	25 26 27 28
(4)	If an authorised officer gives an individual biosecurity direction in the case of an emergency, the direction is to include a warning that the direction is being given in the case of an emergency.	29 30 31
(5)	A failure to comply with subsection (4) does not affect the validity of a biosecurity direction.	32 33
120	Examples of individual biosecurity directions	34
(1)	Without limiting the generality of this Division, an individual biosecurity direction may include provisions that prohibit, regulate or control, or that require, any of the following:	35 36 37
(a)	the isolation, confinement or detention of any biosecurity matter or other thing,	38 39
(b)	the erection or repair of fencing, gates or any other method of enclosure, or other specified security or containment measures in relation to any premises, biosecurity matter or other thing,	40 41 42
(c)	the erection of signs,	43
(d)	the movement of any biosecurity matter, carrier, potential carrier or other thing,	44 45
(e)	treatment measures in relation to any biosecurity matter, carrier, potential carrier, premises or other thing,	46 47

(f)	the provision of samples of any biosecurity matter or other thing,	1
(g)	the testing of any biosecurity matter or other thing,	2
(h)	the obtaining of a biosecurity certificate in relation to any biosecurity matter or any other thing,	3 4
(i)	the installation or use of a device for the purpose of detecting or monitoring the presence of any biosecurity matter or other thing or capturing any biosecurity matter or other thing,	5 6 7
(j)	the destruction, disposal or eradication of any biosecurity matter or other thing,	8 9
(k)	any other matters expressly authorised by the regulations.	10
(2)	A power to require a person to do something includes a power to require a person to arrange for that thing to be done.	11 12
121	Special emergency powers—inspection and treatment measures	13
(1)	An authorised officer who gives an individual biosecurity direction in the case of an emergency may direct a person to do any of the following:	14 15
(a)	permit the authorised officer to inspect the person for biosecurity matter, a carrier or potential carrier,	16 17
(b)	permit the authorised officer to inspect any thing in the person’s possession, care, custody or control for biosecurity matter, a carrier or a potential carrier,	18 19
(c)	carry out or permit an external treatment measure to be carried out in relation to that person,	20 21
(d)	carry out or permit a treatment measure to be carried out in relation to any thing in the person’s possession, care, custody or control.	22 23
(2)	An authorised officer who gives an individual biosecurity direction in the case of an emergency may direct a person in control or apparently in control of a vehicle to do any of the following:	24 25 26
(a)	permit the vehicle to be inspected for biosecurity matter, a carrier or a potential carrier,	27 28
(b)	carry out or permit a treatment measure to be carried out in relation to the vehicle.	29 30
(3)	An authorised officer may direct a person to stop, or to stop a vehicle, for the purpose of exercising a power conferred by this section.	31 32
(4)	This section does not limit the powers of an authorised officer under Part 8 with respect to any vehicle, or vehicle on premises, entered under a power conferred by that Part that is not occupied by a person at the time that the power is exercised.	33 34 35
122	Fee for individual biosecurity direction	36
(1)	An authorised officer who gives an individual biosecurity direction may charge the person to whom it is given a fee for preparing and giving the direction.	37 38
(2)	The fee charged is to be an amount provided for by, or calculated in accordance with, the regulations.	39 40
(3)	The fee is, for the purposes of this Act:	41
(a)	a recoverable amount that is payable to the Secretary, and	42
(b)	recoverable from the person given the biosecurity direction.	43
	Note. See Part 20, which provides for the recovery of recoverable amounts.	44

123	Taking of required actions and recovery of costs	1
(1)	If a person (the <i>liable person</i>) fails to comply with an individual biosecurity direction, an authorised officer may enter or authorise any person to enter premises and take any actions in relation to those premises or any thing on those premises that the liable person is required to take by the direction or that are otherwise necessary to remedy that failure.	2 3 4 5 6
(2)	The Secretary may charge the liable person a fee for action taken under this section.	7
(3)	The fee is to be no more than is reasonable to cover the costs and expenses incurred by or on behalf of the Secretary in taking the action.	8 9
(4)	The fee is:	10
(a)	a recoverable amount that is payable to the Secretary, and	11
(b)	recoverable from the liable person.	12
	Note. See Part 20, which provides for the recovery of recoverable amounts.	13
(5)	An authorised officer must give an occupier of premises used for residential purposes written notice of an intention to enter any part of the premises used only for residential purposes under this section.	14 15 16
(6)	The notice must specify the day on which the premises are intended to be entered and must be given before that day.	17 18
(7)	Notice is not required to be given if:	19
(a)	entry is made with the consent of the occupier of the premises, or	20
(b)	entry is made under the authority of a search warrant.	21
(8)	This section does not prevent the taking of proceedings for an offence of contravening a biosecurity direction.	22 23
	Division 5	24
	Limitations on powers	24
124	Detention or treatment of persons	25
(1)	An authorised officer cannot do any of the following in a biosecurity direction, except as expressly authorised by this Act in the case of an emergency:	26 27
(a)	prohibit, regulate or control the movement of a person,	28
(b)	require a person to undergo any treatment measures or require treatment measures to be carried out in relation to a person.	29 30
(2)	An authorised officer cannot, in a biosecurity direction, require a person to provide samples of the person's blood, hair, saliva or any other body part or body fluid.	31 32
(3)	Subsection (1) (a) does not prevent a biosecurity direction being imposed in relation to any biosecurity matter, premises, activity or thing that has an impact on the movement of a person but is not imposed for the purpose of restricting the movement of a person.	33 34 35 36
	Note. For example, a biosecurity direction could prohibit a person from taking a particular animal or plant out of premises. This direction may have an impact on the movement of a person but is not imposed for that purpose.	37 38 39
125	Inspection of persons	40
	A power conferred by this Part to require a person to submit to an inspection is a power to require a person to do any of the following:	41 42
(a)	to submit to a visual inspection (including of the exterior of the person's clothing and shoes),	43 44

(b)	to shake, or otherwise move, the person's hair,	1
(c)	to make available for inspection any thing in the person's possession.	2
126	Destruction requirements	3
(1)	An authorised officer cannot, under this Part, destroy or require the destruction of a thing unless:	4
(a)	the thing is, or is reasonably suspected of being, prohibited matter, or	5
(b)	the thing is a pest, or	6
(c)	the thing is, or is reasonably suspected of being, infected or infested with, or of harbouring, biosecurity matter that poses a biosecurity risk and there are no other reasonably practicable treatment measures that could eliminate or minimise the biosecurity risk posed by the biosecurity matter, or	7
(d)	the destruction is expressly authorised or required by an emergency order, control order or biosecurity zone regulation.	8
(2)	In this section:	9
	<i>reasonably practicable</i> means reasonably practicable in the opinion of the authorised officer.	10
	<i>reasonably suspected</i> means reasonably suspected by the authorised officer.	11
127	Interaction of powers with restrictions imposed by other Acts	12
(1)	An authorised officer must not, under this Part:	13
(a)	destroy or require the destruction of any living thing that is protected fauna or a protected native plant within the meaning of the <i>National Parks and Wildlife Act 1974</i> , or	14
(b)	destroy or require the destruction of any living thing that is a threatened species within the meaning of the <i>Threatened Species Conservation Act 1995</i> , or	15
(c)	clear or require the clearing of native vegetation within the meaning of the <i>Native Vegetation Act 2003</i> , or	16
(d)	harm (within the meaning of the <i>Heritage Act 1977</i>) or require the harming of any building, work, relic, moveable object or place the subject of an interim heritage order or listing on the State Heritage Register under that Act.	17
(2)	This section does not limit the power of an authorised officer to do or require a thing to be done where that action is expressly authorised or required by an emergency order, a control order or a biosecurity zone regulation.	18
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(b)	is guilty of a continuing offence for each day the contravention continues.	1
(5)	Subsection (4) does not apply to the extent that a requirement of a biosecurity direction is revoked.	2 3
129	Defence of reasonable excuse	4
	In proceedings in which a person is charged with an offence of contravening a biosecurity direction, it is a defence to the prosecution of the offence if the person charged proves that the person had a reasonable excuse for the contravention concerned.	5 6 7 8
130	Appeal to Land and Environment Court	9
(1)	A person aggrieved by a decision of an authorised officer to give a biosecurity direction, or to amend a biosecurity direction, may appeal to the Land and Environment Court against the decision.	10 11 12
(2)	An appeal is to be made in accordance with rules of court, but may not be made more than 28 days after the date written notice of the decision is served on the person.	13 14
(3)	Subject to any order made by the Land and Environment Court, an appeal does not operate to stay the decision to which the appeal relates.	15 16
(4)	No appeal lies against any of the following decisions:	17
(a)	a decision to give a general biosecurity direction,	18
(b)	a decision to give an individual biosecurity direction that is given by an authorised officer in the case of an emergency.	19 20
131	Prior notice of direction not required	21
	An authorised officer is not required to notify any person who may be affected by a biosecurity direction before giving the direction.	22 23

Part 10 Biosecurity undertakings	1
132 Authorised officer may accept undertakings	2
(1) An authorised officer may accept a written undertaking (a <i>biosecurity undertaking</i>) given by a person if the person has contravened or the authorised officer suspects that the person has contravened or is likely to contravene a requirement imposed by or under this Act.	3 4 5 6
(2) An authorised officer may accept a biosecurity undertaking from a person instead of giving the person a biosecurity direction.	7 8
(3) The giving of an undertaking does not constitute an admission of guilt by the person giving it in relation to the contravention, suspected contravention or likely contravention to which the undertaking relates.	9 10 11
133 Contents of biosecurity undertaking	12
(1) A biosecurity undertaking must specify:	13
(a) the contravention, suspected contravention or likely contravention to which the biosecurity undertaking relates, and	14 15
(b) the measures that the person has agreed to implement to remedy or prevent the contravention, suspected contravention or likely contravention, and	16 17
(c) the period or periods by the end of which the measures must be implemented.	18
(2) A failure to comply with this section does not affect the validity of a biosecurity undertaking.	19 20
134 When biosecurity undertaking takes effect	21
(1) A biosecurity undertaking takes effect and becomes enforceable when a written instrument evidencing the terms of the undertaking is executed by both the person giving the undertaking and the authorised officer who is accepting the undertaking.	22 23 24
(2) An authorised officer who executes a biosecurity undertaking is taken to enter into that biosecurity undertaking on behalf of the Secretary.	25 26
135 Contravention of biosecurity undertaking	27
(1) A person who contravenes a biosecurity undertaking given by that person, and which is in effect, is guilty of an offence.	28 29
(2) An offence against this section is a category 2 offence.	30
(3) An offence against this section is an executive liability offence.	31
(4) A person who is guilty of an offence against this section because the person contravenes a requirement of a biosecurity undertaking to do or refrain from doing something:	32 33 34
(a) continues, until the requirement is complied with and despite the fact that any specified period or time for compliance has expired or passed, to be liable to comply with the requirement, and	35 36 37
(b) is guilty of a continuing offence for each day the contravention continues.	38
(5) Subsection (4) does not apply to the extent that a requirement of a biosecurity undertaking is withdrawn in accordance with this Part.	39 40
136 Fee for biosecurity undertaking	41
(1) An authorised officer who accepts a biosecurity undertaking may charge the person who gives the undertaking a fee for preparing and accepting the undertaking.	42 43

(2)	The fee charged is to be an amount provided for by, or calculated in accordance with, the regulations.	1 2
(3)	For the purposes of this Act, the fee is:	3
(a)	a recoverable amount that is payable to the Secretary, and	4
(b)	recoverable from the person who gave the biosecurity undertaking.	5
	Note. See Part 20, which provides for the recovery of recoverable amounts.	6
137	Authorised officer may take or authorise required actions and recover costs	7
(1)	If a person (the <i>liable person</i>) fails to comply with a biosecurity undertaking, an authorised officer may enter or authorise any person to enter premises and take any actions in relation to those premises or any thing on those premises that the liable person is required to take by the biosecurity undertaking or that are otherwise necessary to remedy that failure.	8 9 10 11 12
(2)	The Secretary may charge the liable person a fee for action taken under this section.	13
(3)	The fee is to be no more than is reasonable to cover the costs and expenses incurred by or on behalf of the Secretary in taking the action.	14 15
(4)	The fee is:	16
(a)	a recoverable amount that is payable to the Secretary, and	17
(b)	recoverable from the liable person.	18
	Note. See Part 20, which provides for the recovery of recoverable amounts.	19
(5)	An authorised officer must give an occupier of premises used for residential purposes written notice of an intention to enter any part of the premises used only for residential purposes under this section.	20 21 22
(6)	The notice must specify the day on which the premises are intended to be entered and must be given before that day.	23 24
(7)	Notice is not required to be given if:	25
(a)	entry is made with the consent of the occupier of the premises, or	26
(b)	entry is made under the authority of a search warrant.	27
(8)	This section does not prevent the taking of proceedings for an offence of contravening a biosecurity undertaking.	28 29
138	Order requiring compliance with biosecurity undertaking	30
(1)	The Secretary may apply to the Land and Environment Court for an order if a person contravenes a biosecurity undertaking.	31 32
(2)	If the Court is satisfied that the person who made the biosecurity undertaking has contravened the undertaking, the Court may make one or both of the following orders:	33 34 35
(a)	an order directing the person to comply with the undertaking,	36
(b)	an order discharging or varying the undertaking.	37
(3)	In addition to the orders referred to in subsection (2), the Court may make any other order that the Court considers appropriate in the circumstances, including orders directing the person to pay to the State:	38 39 40
(a)	the costs of the proceedings, and	41
(b)	the reasonable costs of the Secretary in monitoring compliance with the biosecurity undertaking in the future.	42 43

(4)	Nothing in this section affects the liability of a person who contravenes a biosecurity undertaking for an offence.	1 2
139	Withdrawal or variation of biosecurity undertaking	3
(1)	A person who has made a biosecurity undertaking may, at any time, with the written agreement of the Secretary or an authorised officer:	4 5
(a)	withdraw the undertaking, or	6
(b)	vary the undertaking.	7
(2)	Any authorised officer may, at any time:	8
(a)	withdraw an authorised officer's acceptance of a biosecurity undertaking, by notice in writing served on the person who gave the undertaking, or	9 10
(b)	vary a biosecurity undertaking (but only with the written agreement of the person who gave the undertaking).	11 12
(3)	The provisions of an undertaking cannot be varied to provide for a different alleged contravention.	13 14
(4)	A biosecurity undertaking ceases to have effect if:	15
(a)	it is withdrawn by the person who made it (in accordance with this section), or	16
(b)	acceptance of the undertaking is withdrawn by an authorised officer.	17
140	Enforcement action not prevented by undertaking	18
	A biosecurity undertaking does not prevent the taking or continuation of proceedings for an offence against this Act or the regulations in respect of any matter that is the subject of the undertaking.	19 20 21

Part 11 Prohibited dealings and registrable dealings	1
Division 1 Prohibited dealings	2
141 Prohibited dealings	3
(1) A dealing with biosecurity matter described in Schedule 3 is a prohibited dealing.	4
(2) The regulations may amend Schedule 3 by inserting, altering or omitting the description of any matter in that Schedule.	5 6
142 Offence of engaging in prohibited dealing	7
(1) A person who engages in a prohibited dealing is guilty of an offence.	8
(2) An offence against this section is a category 2 offence.	9
Division 2 Dealings for which biosecurity registration is required	10
143 Registrable dealings in biosecurity matter	11
(1) Each of the dealings described in Schedule 4 is a registrable dealing.	12
(2) The regulations may amend Schedule 4 by inserting, altering or omitting the description of any matter in that Schedule.	13 14
144 Offence of engaging in registrable dealing without biosecurity registration	15
(1) A person who engages in a registrable dealing is guilty of an offence unless:	16
(a) the person is a registered entity, and	17
(b) the dealing is authorised by the person's biosecurity registration.	18
(2) An offence against this section is a category 2 offence.	19
(3) An offence against this section is an executive liability offence.	20
Note. Part 12 deals with biosecurity registration.	21
145 Defence for employees and agents	22
In proceedings for an offence against this Division, it is a defence to the prosecution of the offence if the person who engaged in the registrable dealing proves that:	23 24
(a) the person did so as the employee or agent of a registered entity, and	25
(b) the biosecurity registration authorises the registered entity to engage in the dealing.	26 27

Part 12 Biosecurity registration	1
Division 1 Preliminary	2
146 Registration of persons authorised to engage in registrable dealings	3
(1) The Secretary may, by granting biosecurity registration under this Part, authorise a person to engage in a registrable dealing.	4 5
(2) Biosecurity registration authorises only the dealing or dealings specified in the notice by which biosecurity registration is granted or renewed.	6 7
(3) The authorisation is subject to any conditions of biosecurity registration.	8
147 Registered entity—meaning	9
A person is a <i>registered entity</i> if the person has been granted biosecurity registration under this Part, and that biosecurity registration is in force.	10 11
148 References to functions exercisable “in the case of an emergency”	12
(1) A provision of this Part that enables the Secretary to exercise a function <i>in the case of an emergency</i> enables the Secretary to exercise that function if:	13 14
(a) the Secretary reasonably believes it is necessary to exercise the function because of an emergency order, or	15 16
(b) the Secretary otherwise reasonably believes it is necessary to exercise the function because:	17 18
(i) a biosecurity emergency has occurred, is occurring or is imminent, or	19
(ii) the Secretary reasonably suspects a biosecurity emergency has occurred, is occurring or is imminent.	20 21
(2) A function under this Part is taken to have been exercised <i>in the case of an emergency</i> if it is exercised by the Secretary in the circumstances referred to in subsection (1).	22 23 24
Division 2 Application for biosecurity registration	25
149 Application for biosecurity registration	26
(1) A person may apply to the Secretary for biosecurity registration.	27
(2) An application must:	28
(a) be in an approved form, and	29
(b) be accompanied by the application fee prescribed by the regulations (if any) in respect of the dealing concerned, and	30 31
(c) include or be accompanied by any information or evidence that the Secretary reasonably requires to assess the application.	32 33
(3) The Secretary may require a separate application to be made in relation to each registrable dealing.	34 35
(4) An application for biosecurity registration is not duly made unless it complies with this section.	36 37
150 Grant or refusal of biosecurity registration	38
(1) The Secretary may, on application, grant or refuse biosecurity registration.	39

(2)	The Secretary may refuse biosecurity registration:	1
(a)	if the application for biosecurity registration is not duly made, or	2
(b)	if the Secretary is of the opinion that the applicant is not a suitable person to be involved in the registrable dealing concerned, or	3 4
(c)	on any grounds prescribed by the regulations, or	5
(d)	for any other reason that the Secretary considers to be a good reason for refusing the application.	6 7
(3)	A decision about the suitability of the person to be involved in a registrable dealing may be made having regard to any of the following:	8 9
(a)	the fact that the person has been found guilty of an offence under this Act or the regulations, or an offence under any other Act or law,	10 11
(b)	an accreditation audit,	12
(c)	any matter prescribed by the regulations,	13
(d)	any other circumstances that the Secretary considers relevant.	14
(4)	The Secretary is to give the applicant notice in writing of a decision to grant or refuse biosecurity registration.	15 16
(5)	If the Secretary fails to give an applicant for biosecurity registration notice of a decision to grant or refuse the biosecurity registration within the period prescribed by the regulations, the Secretary is taken to have refused to grant the biosecurity registration.	17 18 19 20
	Note. Part 15 provides for accreditation audits in relation to applications.	21
151	Duration of biosecurity registration	22
(1)	Biosecurity registration remains in force for a period (not exceeding 5 years) specified by the Secretary in the notice by which biosecurity registration is granted or renewed, unless sooner cancelled.	23 24 25
(2)	Biosecurity registration has no effect during any period in which biosecurity registration is suspended.	26 27
152	Variation of biosecurity registration	28
(1)	The Secretary may, at any time, by notice in writing to a registered entity, vary the biosecurity registration of that registered entity (including any conditions of biosecurity registration imposed by the Secretary).	29 30 31
(2)	A variation includes the imposition of new conditions on biosecurity registration, the substitution of a condition, or the omission or amendment of a condition.	32 33
(3)	The regulations may make further provision for the variation of biosecurity registration, including:	34 35
(a)	applications for variation, and	36
(b)	fees for applications for variation.	37
Division 3	Renewal of biosecurity registration	38
153	Application for renewal of biosecurity registration	39
(1)	A registered entity may apply to the Secretary for renewal of biosecurity registration in respect of a registrable dealing.	40 41
(2)	An application must:	42
(a)	be in an approved form, and	43

(b)	be accompanied by the application fee prescribed by the regulations (if any) in respect of the dealing concerned, and	1 2
(c)	include or be accompanied by any information or evidence that the Secretary reasonably requires to assess the application.	3 4
(3)	The Secretary may require a separate application in relation to each registrable dealing.	5 6
(4)	An application for renewal of biosecurity registration is not duly made unless it complies with this section.	7 8
(5)	If an application for renewal of biosecurity registration in respect of a dealing is duly made to the Secretary before the expiry of biosecurity registration, biosecurity registration is taken to continue in force until the Secretary notifies the applicant of a decision to grant or refuse the application.	9 10 11 12
154	Grant or refusal of renewal application	13
(1)	The Secretary may, on application, renew or refuse to renew biosecurity registration.	14
(2)	The Secretary may refuse to renew biosecurity registration:	15
(a)	if the application for renewal of biosecurity registration is not duly made, or	16
(b)	if the Secretary is of the opinion that the applicant is not a suitable person to be involved in the registrable dealing concerned, or	17 18
(c)	in the case of an emergency, or	19
(d)	on any grounds prescribed by the regulations, or	20
(e)	for any other reason that the Secretary considers to be a good reason for refusing the application.	21 22
(3)	A decision about the suitability of the person to be involved in a registrable dealing may be made having regard to any of the following:	23 24
(a)	the fact that the person has been found guilty of an offence under this Act or the regulations, or an offence under any other Act or law,	25 26
(b)	any biosecurity audit relating to the registered entity,	27
(c)	any matter prescribed by the regulations,	28
(d)	any other circumstances that the Secretary considers relevant.	29
(4)	The Secretary is to give the applicant notice in writing of a decision to grant or refuse a renewal of biosecurity registration.	30 31
(5)	If the Secretary fails to give an applicant for renewal of biosecurity registration notice of a decision to grant or refuse the renewal within the period prescribed by the regulations, the Secretary is taken to have refused to renew the biosecurity registration.	32 33 34 35
	Note. Part 15 provides for accreditation audits in relation to applications.	36
Division 4	Conditions of biosecurity registration	37
155	Conditions of biosecurity registration	38
(1)	Biosecurity registration is subject to the following conditions:	39
(a)	any conditions prescribed by the regulations,	40
(b)	any conditions imposed by the Secretary.	41
(2)	The Secretary may impose conditions on biosecurity registration:	42
(a)	at the time of the grant or renewal of biosecurity registration, or	43

	(b) at any other time by variation to the biosecurity registration.	1
(3)	A provision of this Division that authorises a type of condition to be imposed on biosecurity registration does not prevent other types of conditions being imposed or limit the matters that can be provided for by conditions, except where expressly provided for by this Division.	2 3 4 5
(4)	In this Division: <i>registered entity</i> includes a former registered entity.	6 7
156	Compliance with standards	8
	The conditions of biosecurity registration may require the registered entity to engage in a registrable dealing in accordance with specified standards.	9 10
157	Conditions requiring works or measures	11
	The conditions of biosecurity registration may require the registered entity to carry out specified works, or put in place specified measures, to prevent, eliminate, minimise or manage the biosecurity risk of a registrable dealing.	12 13 14
158	Alternative arrangements	15
(1)	The conditions of biosecurity registration may require the registered entity to have in place an alternative arrangement that has been approved by the Secretary.	16 17
(2)	An alternative arrangement is a plan or arrangement relating to the registrable dealing that takes effect if:	18 19
	(a) the registered entity ceases to be authorised to engage in the registrable dealing, or	20 21
	(b) the registered entity is unable, because of illness, financial circumstances or otherwise, to continue to engage in the registrable dealing.	22 23
159	Conditions for insurance cover	24
	The conditions of biosecurity registration may require the registered entity to take out and maintain a policy of insurance that indemnifies the registered entity against any liability to which the registered entity may become subject as a result of engaging in the registrable dealing.	25 26 27 28
160	Conditions for biosecurity audits	29
	The conditions of biosecurity registration may require the registered entity to co-operate with, or arrange for, mandatory biosecurity audits and may provide for the frequency of biosecurity audits.	30 31 32
161	Conditions requiring financial assurances	33
(1)	The conditions of biosecurity registration may require the registered entity to provide a financial assurance. The Secretary may require any such financial assurance to be provided before the Secretary grants, renews, varies, suspends or cancels biosecurity registration.	34 35 36 37
(2)	The purpose of a condition requiring the provision of a financial assurance is to secure or guarantee funding for or towards the doing of anything required to remedy a contravention of another condition of biosecurity registration (the <i>secured condition</i>).	38 39 40 41
(3)	A financial assurance is not to operate as a mere penalty for a contravention of a requirement imposed by or under this Act.	42 43

(4)	A financial assurance may be in one or more of the following forms:	1
(a)	a bank guarantee,	2
(b)	a bond,	3
(c)	a form specified by the regulations,	4
(d)	another form of security that the Secretary considers appropriate and specifies in the condition.	5 6
(5)	The regulations and, subject to the regulations, the conditions of biosecurity registration, may make provision for or with respect to financial assurances, including the following:	7 8 9
(a)	the calculation of the amount of financial assurances that can be required,	10
(b)	the circumstances in which financial assurances may be claimed or realised, and the procedure for claiming or realising financial assurances,	11 12
(c)	the works that can be carried out to remedy a contravention of a secured condition, including provisions that:	13 14
(i)	specify the circumstances in which those works can be carried out by or on behalf of the Secretary, and	15 16
(ii)	authorise the Secretary, or a person acting on behalf of the Secretary, to enter land to carry out those works,	17 18
(d)	the provision of information in respect of the works,	19
(e)	the audit of the works,	20
(f)	the administration of financial assurances.	21
(6)	The Land and Environment Court has jurisdiction to determine disputes about calling on or using a financial assurance.	22 23
(7)	A financial assurance may be called on and used, despite and without affecting:	24
(a)	any liability of the registered entity for any penalty for an offence for a contravention to which the assurance relates, and	25 26
(b)	any other action that might be taken or is required to be taken in relation to any contravention or other circumstances to which the assurance relates.	27 28
162	Conditions to take effect later	29
(1)	The conditions of biosecurity registration may provide that an authorisation conferred by the biosecurity registration does not take effect until the end of a specified period or on the happening of a particular event or on the occurrence of a specified state of affairs.	30 31 32 33
(2)	Without limiting the generality of the above, the conditions may provide that an authorisation or variation will not take effect until a financial assurance is provided in accordance with the condition.	34 35 36
Division 5	Suspension or cancellation of biosecurity registration	37
163	Grounds for suspension or cancellation of biosecurity registration	38
(1)	Each of the following constitutes grounds for suspending or cancelling biosecurity registration:	39 40
(a)	the Secretary is of the opinion that the registered entity has contravened a requirement imposed by or under this Act,	41 42
(b)	the Secretary is of the opinion that the registered entity is not a suitable person to be involved in the registrable dealing concerned,	43 44

(c)	the Secretary receives information about the registered entity and the Secretary is of the opinion that, had the information been received at the time when the application for biosecurity registration or renewal of biosecurity registration was made, the Secretary would have refused the application,	1 2 3 4
(d)	any other grounds prescribed by the regulations.	5
(2)	The Secretary may also suspend or cancel biosecurity registration in the case of an emergency (in which case, the emergency is the grounds for the suspension or cancellation).	6 7 8
(3)	A decision about the suitability of the person to be involved in a registrable dealing may be made having regard to any of the following:	9 10
(a)	the fact that the person has been found guilty of an offence under this Act or the regulations, or an offence under any other Act or law,	11 12
(b)	a biosecurity audit,	13
(c)	any matter prescribed by the regulations,	14
(d)	any other circumstances that the Secretary considers relevant.	15
(4)	In this Division: <i>registered entity</i> includes a former registered entity.	16 17
164	Suspension of biosecurity registration	18
(1)	The Secretary may, by notice in writing to a registered entity, suspend the biosecurity registration of the registered entity if the Secretary is satisfied that there are grounds for the suspension of registration.	19 20 21
(2)	Notice of the suspension must specify:	22
(a)	the date or time from which suspension takes effect, and	23
(b)	the period of suspension, and	24
(c)	the grounds for the suspension.	25
165	Registered entity to be given opportunity to make submissions about suspension	26
(1)	Before suspending biosecurity registration of a registered entity, the Secretary must:	27
(a)	give notice in writing to the registered entity of the Secretary's intention to suspend registration and the proposed grounds for doing so, and	28 29
(b)	invite the registered entity to make a submission to the Secretary about the proposed suspension, and	30 31
(c)	take into account any submission made to the Secretary by the registered entity before the deadline for the making of a submission.	32 33
(2)	The Secretary is to specify a deadline for the making of a submission to the Secretary about a proposed suspension that is at least 30 days after notice of the proposed suspension is given to the registered entity.	34 35 36
(3)	The Secretary is not required to give notice under this section of a proposed suspension if the Secretary is of the opinion that the suspension is required urgently because of the biosecurity impact of the registrable dealing being carried out by the registered entity or in the case of an emergency.	37 38 39 40
(4)	However, if the Secretary suspends biosecurity registration without giving prior notice to the registered entity, the Secretary must:	41 42
(a)	give the registered entity notice in writing of the grounds for the suspension, and	43 44

(b)	invite the registered entity to make a submission to the Secretary about the suspension by a specified deadline (being at least 30 days after the notice is given to the registered entity).	1 2 3
(5)	If the registered entity makes a submission to the Secretary about the suspension before the specified deadline, the Secretary must:	4 5
(a)	decide whether the suspension should be revoked or continued, having regard to that submission, and	6 7
(b)	give notice in writing of that decision to the registered entity.	8
166	Cancellation of biosecurity registration	9
(1)	The Secretary may, by notice in writing to a registered entity, cancel the biosecurity registration of the registered entity if:	10 11
(a)	the Secretary is satisfied that there are grounds for the cancellation of biosecurity registration, or	12 13
(b)	the registered entity applies for cancellation of biosecurity registration.	14
(2)	Notice of the cancellation must specify:	15
(a)	the date or time from which cancellation takes effect, and	16
(b)	the grounds for the cancellation.	17
167	Registered entity to be given opportunity to make submissions about cancellation	18
(1)	Before cancelling the biosecurity registration of a registered entity, the Secretary must:	19 20
(a)	give notice in writing to the registered entity of the Secretary's intention to cancel biosecurity registration and the proposed grounds for doing so, and	21 22
(b)	invite the registered entity to make a submission to the Secretary about the proposed cancellation, and	23 24
(c)	take into account any submission made to the Secretary by the registered entity before the deadline for the making of a submission.	25 26
(2)	The Secretary must specify a deadline for the making of a submission to the Secretary about the proposed cancellation that is at least 30 days after notice of the proposed cancellation is given to the registered entity.	27 28 29
(3)	The Secretary is not required to give notice under this section of a proposed cancellation if:	30 31
(a)	the biosecurity registration of the registered entity is suspended and either:	32
(i)	the registered entity was given an opportunity to make a submission about the suspension before the suspension took effect, or	33 34
(ii)	the registered entity was given an opportunity to make a submission about the suspension after the suspension took effect, and the period specified by the Secretary for the making of that submission has ended, or	35 36 37 38
(b)	the registered entity has applied for cancellation of biosecurity registration.	39
168	Effect of suspension or cancellation on conditions	40
(1)	Biosecurity registration may be suspended or cancelled unconditionally or subject to such conditions as the Secretary imposes.	41 42
(2)	Those conditions may include (but are not limited to) any conditions to which the biosecurity registration was subject immediately before it was suspended or cancelled.	43 44 45

(3)	The Secretary may, by notice in writing given to the former registered entity, attach new conditions to, or vary or revoke any existing conditions of, the suspension or cancellation of the biosecurity registration.	1 2 3
Division 6	Miscellaneous	4
169	Offence of contravening condition of biosecurity registration	5
(1)	A registered entity who contravenes a condition of biosecurity registration is guilty of an offence.	6 7
(2)	An offence against this section is a category 2 offence.	8
(3)	An offence against this section is an executive liability offence.	9
(4)	A person who is guilty of an offence against this section because the person contravenes a requirement of a condition of biosecurity registration to do or refrain from doing something:	10 11 12
(a)	continues, until the requirement is complied with and despite the fact that any specified period or time for compliance has expired or passed, to be liable to comply with the requirement, and	13 14 15
(b)	is guilty of a continuing offence for each day the contravention continues.	16
(5)	Subsection (4) does not apply to the extent that a requirement of a condition is revoked.	17 18
(6)	In this section: <i>registered entity</i> includes a former registered entity.	19 20
170	Biosecurity registration is not transferable	21
	Biosecurity registration is not transferable.	22
171	Surrender of biosecurity registration	23
(1)	A registered entity may apply to the Secretary for a cancellation of biosecurity registration.	24 25
(2)	An application must:	26
(a)	be in an approved form, and	27
(b)	be accompanied by the fee for voluntary cancellation of biosecurity registration (if any) in respect of the dealing concerned prescribed by the regulations, and	28 29 30
(c)	include or be accompanied by any information or evidence required by the Secretary to assess the application.	31 32
(3)	A separate application is required in relation to each dealing for which biosecurity registration is required.	33 34
(4)	An application for cancellation of biosecurity registration is not duly made unless it complies with this section.	35 36
172	Appeal to Land and Environment Court	37
(1)	A person aggrieved by any of the following decisions may appeal to the Land and Environment Court against the decision:	38 39
(a)	a decision of the Secretary to refuse biosecurity registration,	40
(b)	a decision of the Secretary to refuse to renew biosecurity registration,	41
(c)	a decision of the Secretary to suspend or cancel biosecurity registration,	42

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| (d) | a decision of the Secretary to refuse to revoke a suspension of biosecurity registration following the making of a submission by a registered entity under this Part, being a suspension of which the registered entity was not given prior notice, | 1
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| (e) | a decision of the Secretary to impose any condition on biosecurity registration, or on the suspension or cancellation of biosecurity registration, | 5
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| (f) | a decision of the Secretary to vary biosecurity registration. | 7 |
| (2) | An appeal is to be made in accordance with rules of court, but may not be made more than 28 days after the date written notice of the decision is served on the person. | 8
9 |
| (3) | Subject to any order made by the Land and Environment Court, an appeal does not operate to stay the decision to which the appeal relates. | 10
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Part 13 Biosecurity certificates	1
Division 1 Biosecurity certificates	2
173 Biosecurity certifier may issue biosecurity certificates	3
A biosecurity certifier may issue a biosecurity certificate under this Act.	4
174 Biosecurity certificate—meaning	5
(1) A <i>biosecurity certificate</i> is a certificate that relates to any specified biosecurity matter or other thing and that certifies any of the following matters about the biosecurity matter or thing:	6
(a) that it is free from any stated biosecurity matter (such as a specified pest, disease, or contaminant),	7
(b) that it is in a specified condition,	8
(c) that it is from a specified area,	9
(d) that it has been the subject of a specified treatment,	10
(e) that it meets specified requirements.	11
(2) A biosecurity certificate remains in force for the period specified in the certificate.	12
Division 2 Interstate biosecurity certificates	13
175 Recognition of interstate biosecurity certificates	14
A requirement imposed by or under this Act that a person obtain, or have in possession, a biosecurity certificate in relation to a matter may be satisfied by the person obtaining, or having in possession, an interstate biosecurity certificate in relation to that matter that is in force.	15
176 Interstate biosecurity certificate—meaning	16
An <i>interstate biosecurity certificate</i> is a certificate or other document duly issued under a corresponding law that relates to any specified biosecurity matter or other thing in which a person certifies any matter in relation to which a biosecurity certificate could be issued under this Act and which is in force.	17
Division 3 Offences	18
177 Provision of false or misleading information to biosecurity certifier	19
(1) A person who, in connection with obtaining or the issue of a biosecurity certificate, furnishes any information to a biosecurity certifier that is false or misleading in a material particular, or fails to furnish any material information, is guilty of an offence.	20
(2) An offence against this section is a category 1 offence if the offence is committed intentionally or recklessly.	21
(3) In any other case, the offence is a category 2 offence.	22
(4) A category 1 offence against this section is an executive liability offence.	23
(5) In this section: <i>biosecurity certifier</i> includes a person acting on behalf of a biosecurity certifier.	24

178	False biosecurity certificates	1
(1)	A person who issues, or purports to issue, a biosecurity certificate, or purported biosecurity certificate, is guilty of an offence if the certificate is false or misleading in a material particular.	2 3 4
(2)	A person who alters or amends a biosecurity certificate, or purported biosecurity certificate, is guilty of an offence if the alteration or amendment makes the certificate false or misleading in a material particular.	5 6 7
(3)	A certificate is false or misleading in a material particular if it:	8
(a)	includes information that is false or misleading in a material particular, or	9
(b)	omits material information.	10
(4)	An offence against subsection (1) or (2) is a category 1 offence if the offence is committed intentionally or recklessly.	11 12
(5)	In any other case, an offence against subsection (1) or (2) is a category 2 offence.	13
(6)	A category 1 offence against subsection (1) or (2) is an executive liability offence.	14
(7)	In this section: <i>biosecurity certificate</i> includes an interstate biosecurity certificate.	15 16
179	False representations	17
(1)	A person who falsely represents that a biosecurity certificate has been issued in respect of any matter is guilty of an offence.	18 19
(2)	An offence against this section is a category 1 offence if the offence is committed intentionally or recklessly.	20 21
(3)	In any other case, an offence against this section is a category 2 offence.	22
(4)	A category 1 offence against this section is an executive liability offence.	23
(5)	In this section: <i>biosecurity certificate</i> includes an interstate biosecurity certificate.	24 25
180	Issue or alteration of biosecurity certificate by unauthorised person	26
(1)	A person who issues, or purports to issue, a biosecurity certificate or purported biosecurity certificate is guilty of an offence if the person is not a biosecurity certifier authorised by or under this Act to issue the certificate concerned.	27 28 29
(2)	A person who alters or amends a biosecurity certificate, or purported biosecurity certificate, is guilty of an offence unless the person is a biosecurity certifier authorised by or under this Act to do so.	30 31 32
(3)	An offence against subsection (1) or (2) is a category 1 offence if the offence is committed intentionally or recklessly.	33 34
(4)	In any other case, an offence against subsection (1) or (2) is a category 2 offence.	35

Part 14 Accreditation of biosecurity certifiers	1
Division 1 Biosecurity certifiers	2
181 Grant of accreditation by accreditation authority	3
An accreditation authority may, by instrument in writing, grant accreditation as a biosecurity certifier to any person, subject to this Act.	4 5
182 Accreditation policy	6
(1) An accreditation authority is required to adopt an accreditation policy for the purposes of this Act.	7 8
(2) An accreditation policy may make provision for or with respect to the following matters:	9 10
(a) the qualifications, skills, knowledge and experience required for the grant of accreditation as a biosecurity certifier by the accreditation authority,	11 12
(b) any other matters prescribed by the regulations.	13
(3) An accreditation authority is to make the accreditation policy publicly available.	14
(4) An accreditation policy adopted by an accreditation authority (other than the Secretary) has no effect unless it has been approved by the Secretary.	15 16
(5) An accreditation authority may amend or replace an accreditation policy adopted by the accreditation authority.	17 18
(6) Subsection (4) applies in relation to the amendment or replacement of an accreditation policy in the same way as it applies to the adoption of an accreditation policy.	19 20 21
(7) However, subsection (4) does not apply to an amendment of an accreditation policy if the accreditation authority certifies that the amendment:	22 23
(a) is minor in nature or for the purpose of correcting an error, or	24
(b) is necessary to reflect a change of a course (including a continuing professional development course) or qualification or of the provider of a course or qualification.	25 26 27
(8) An accreditation authority may adopt different accreditation policies for different types of accreditation.	28 29
(9) A reference in this Act to an accreditation authority's accreditation policy is a reference to the accreditation policy as adopted by the accreditation authority, being, if the authority has more than one policy, the accreditation policy that is relevant to the type of accreditation concerned.	30 31 32 33
183 Effect of accreditation	34
(1) A biosecurity certifier is authorised by his or her accreditation as a biosecurity certifier to issue biosecurity certificates.	35 36
(2) The authorisation is subject to any conditions or limitations specified in the instrument by which the person is accredited as a biosecurity certifier.	37 38
(3) In particular, an accreditation may be limited to:	39
(a) a specified class of biosecurity certificates, or	40
(b) the certification, by the issue of a biosecurity certificate, of specified matters.	41

(4)	Nothing in this Act authorises or requires a biosecurity certifier to act in contravention of the conditions or limitations of his or her accreditation as a biosecurity certifier.	1 2 3
184	Responsible accreditation authority	4
(1)	An accreditation authority that grants accreditation to a person as a biosecurity certifier is the <i>responsible accreditation authority</i> in relation to that accreditation.	5 6
(2)	An accreditation authority ceases to be the responsible accreditation authority in relation to an accreditation if the accreditation is renewed by another accreditation authority. In that case, the accreditation authority that renews the accreditation becomes the responsible accreditation authority in relation to the accreditation.	7 8 9 10
(3)	The Secretary is entitled, but is not required, to exercise any of the functions of the responsible accreditation authority in relation to an accreditation granted or renewed by an accreditation authority.	11 12 13
(4)	If an accreditation authority ceases to be an accreditation authority in relation to accreditation generally or a class of accreditation, the functions of the responsible accreditation authority in relation to any accreditation, or accreditation of that class, that has already been granted or renewed by that accreditation authority may be exercised by:	14 15 16 17 18
(a)	any accreditation authority approved by the Secretary to exercise the functions of the accreditation authority in respect of the accreditation or class of accreditation concerned, or	19 20 21
(b)	if no accreditation authority has been so approved, the Secretary.	22
185	Approval of authorised officer to exercise functions of biosecurity certifier	23
(1)	The Secretary may, by instrument in writing, approve any authorised officer to exercise any specified function or functions of a biosecurity certifier.	24 25
(2)	An approval may apply to a specified authorised officer or to any specified class of authorised officers.	26 27
(3)	An approval may be unconditional, or subject to conditions or limitations.	28
(4)	An approval has effect for the period specified in the instrument of approval or, if no period is specified, until revoked by the Secretary.	29 30
(5)	The Secretary may, by instrument in writing, revoke or amend an approval under this section at any time.	31 32
(6)	The approval of a person as a biosecurity certifier under this section ceases to be in force if the person ceases to be an authorised officer.	33 34
(7)	A person approved to exercise the functions of a biosecurity certifier under this section is taken to be a biosecurity certifier.	35 36
(8)	Nothing in this Act authorises or requires the person to act in contravention of the conditions or limitations of his or her approval to exercise the functions of a biosecurity certifier.	37 38 39
Division 2	Accreditation procedure	40
186	Application for accreditation	41
(1)	A person may apply to an accreditation authority for accreditation as a biosecurity certifier.	42 43

(2)	An application must:	1
(a)	be in a form approved by the accreditation authority, and	2
(b)	be accompanied by the required fee (if any) for the application, and	3
(c)	include or be accompanied by any information or evidence of a kind prescribed by the regulations, and	4 5
(d)	include or be accompanied by any other information or evidence that the accreditation authority reasonably requires to assess the application.	6 7
(3)	An application for accreditation is not duly made unless it complies with subsection (2).	8 9
(4)	In this section:	10
	<i>required fee</i> means:	11
(a)	if the accreditation authority is the Secretary—the fee prescribed by the regulations, or	12 13
(b)	in any other case—the fee required by the accreditation authority.	14
187	Grant or refusal of accreditation	15
(1)	The accreditation authority may, on application, grant or refuse to grant accreditation as a biosecurity certifier.	16 17
(2)	The accreditation authority may refuse to grant accreditation:	18
(a)	if the application for accreditation is not duly made, or	19
(b)	if the accreditation authority is not satisfied that the applicant has the qualifications, skills, knowledge and experience required by the accreditation authority's accreditation policy, or	20 21 22
(c)	if the accreditation authority is of the opinion that the applicant is not a suitable person to be accredited as a biosecurity certifier, or	23 24
(d)	on any grounds prescribed by the regulations.	25
(3)	A decision about the suitability of the person for accreditation may be made having regard to any of the following:	26 27
(a)	the fact that the applicant has been found guilty of an offence under this Act or the regulations, or an offence under any other Act or law,	28 29
(b)	an accreditation audit,	30
(c)	any matter prescribed by the regulations,	31
(d)	any other circumstances that the accreditation authority considers relevant.	32
(4)	The regulations may prescribe circumstances in which it is mandatory for an accreditation authority to refuse accreditation.	33 34
(5)	An accreditation authority must refuse accreditation if it is mandatory for the accreditation authority to refuse accreditation.	35 36
(6)	The accreditation authority is to give the applicant notice in writing of a decision to grant or refuse accreditation.	37 38
(7)	An accreditation authority that fails to give an applicant for accreditation notice of a decision to grant or refuse accreditation within the period prescribed by the regulations is taken to have refused accreditation.	39 40 41

188	Duration of accreditation	1
(1)	Accreditation remains in force for a period (not exceeding 5 years) specified by the accreditation authority in any notice by which accreditation is granted or renewed, unless sooner cancelled.	2 3 4
(2)	Accreditation has no effect during any period in which accreditation is suspended.	5
189	Variation of accreditation	6
(1)	The responsible accreditation authority may, at any time, by notice in writing to a person who has been accredited as a biosecurity certifier, vary the accreditation of the person (including any conditions of accreditation imposed by an accreditation authority).	7 8 9 10
(2)	A variation includes the imposition of new conditions on accreditation, the substitution of a condition, or the omission or amendment of a condition.	11 12
(3)	The regulations may make further provision for the variation of accreditation, including:	13 14
(a)	applications for variation, and	15
(b)	fees for applications for variation.	16
Division 3	Renewal of accreditation	17
190	Application for renewal of accreditation	18
(1)	A biosecurity certifier may apply to an accreditation authority for renewal of accreditation as a biosecurity certifier.	19 20
(2)	An application must:	21
(a)	be in a form approved by the accreditation authority, and	22
(b)	be accompanied by the required fee (if any) for the application, and	23
(c)	include or be accompanied by any information or evidence of a kind prescribed by the regulations, and	24 25
(d)	include or be accompanied by any other information or evidence that the accreditation authority reasonably requires to assess the application.	26 27
(3)	An application for renewal of accreditation is not duly made unless it complies with subsection (2).	28 29
(4)	If an application for renewal of accreditation is duly made to an accreditation authority before the expiry of accreditation, accreditation is taken to continue in force until the accreditation authority notifies the applicant of a decision to grant or refuse the application.	30 31 32 33
(5)	In this section:	34
	<i>required fee</i> means:	35
(a)	if the accreditation authority is the Secretary—the fee prescribed by the regulations, or	36 37
(b)	in any other case—the fee required by the accreditation authority.	38
191	Grant or refusal of renewal application	39
(1)	An accreditation authority may, on application, renew or refuse to renew accreditation as a biosecurity certifier.	40 41
(2)	An accreditation authority may refuse to renew accreditation:	42
(a)	if the application for renewal of accreditation is not duly made, or	43

- (b) if the accreditation authority is not satisfied that the applicant has the qualifications, skills, knowledge and experience required by the accreditation authority's accreditation policy, or 1
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- (c) if the accreditation authority is of the opinion that the applicant is not a suitable person to be accredited as a biosecurity certifier, or 4
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- (d) on any grounds prescribed by the regulations. 6
- (3) A decision about the suitability of the person for accreditation may be made having regard to any of the following: 7
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 - (a) the fact that the applicant has been found guilty of an offence under this Act or the regulations, or an offence under any other Act or law, 9
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 - (b) any biosecurity audit relating to the biosecurity certifier, 11
 - (c) any matter prescribed by the regulations, 12
 - (d) any other circumstances that the accreditation authority considers relevant. 13
- (4) The regulations may prescribe circumstances in which it is mandatory for an accreditation authority to refuse to renew accreditation. 14
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- (5) An accreditation authority must refuse to renew accreditation if it is mandatory for the accreditation authority to refuse to renew accreditation. 16
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- (6) An accreditation authority is to give the applicant notice in writing of a decision to grant or refuse renewal of accreditation. 18
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- (7) An accreditation authority that fails to give an applicant for accreditation notice of a decision to grant or refuse the renewal of accreditation within the period prescribed by the regulations is taken to have refused accreditation. 20
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Division 4 Conditions of accreditation 23

192 Conditions of accreditation 24

- (1) Accreditation as a biosecurity certifier is subject to the following conditions: 25
 - (a) any conditions prescribed by the regulations, 26
 - (b) any conditions imposed by the responsible accreditation authority. 27
- (2) The responsible accreditation authority may impose conditions on accreditation: 28
 - (a) at the time of the grant or renewal of accreditation, or 29
 - (b) at any other time by variation to the accreditation. 30
- (3) A provision of this Part that authorises a type of condition to be imposed on accreditation does not prevent other types of conditions being imposed or limit the matters that can be provided for by conditions, except where expressly provided for by this Part. 31
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193 Compliance with standards 35

The conditions of accreditation may require the biosecurity certifier to exercise the functions of a biosecurity certifier in accordance with specified standards. 36
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194 Conditions for insurance cover 38

The conditions of accreditation may require the biosecurity certifier to take out and maintain a policy of insurance that indemnifies the biosecurity certifier for any liability to which the biosecurity certifier may become subject as a result of exercising, or purporting to exercise, the functions of a biosecurity certifier. 39
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Division 5	Suspension or cancellation of accreditation	1
195	Grounds for suspension or cancellation of accreditation	2
(1)	Each of the following constitutes grounds for suspending or cancelling accreditation as a biosecurity certifier:	3
(a)	the accreditation authority is of the opinion that the biosecurity certifier has contravened a requirement imposed by or under this Act,	4
(b)	the accreditation authority is not satisfied that the biosecurity certifier has the qualifications, skills, knowledge and experience required by the accreditation authority's accreditation policy,	5
(c)	the accreditation authority is of the opinion that the biosecurity certifier is not a suitable person to be accredited as a biosecurity certifier,	6
(d)	the accreditation authority receives information about the biosecurity certifier and the accreditation authority is of the opinion that, had the information been received at the time when the application for accreditation or renewal of accreditation was made, it would have refused the application,	7
(e)	any other grounds prescribed by the regulations.	8
(2)	A decision about the suitability of the person for accreditation may be made having regard to any of the following:	9
(a)	the fact that the biosecurity certifier has been found guilty of an offence under this Act or the regulations, or an offence under any other Act or law,	10
(b)	a biosecurity audit relating to the biosecurity certifier,	11
(c)	any matter prescribed by the regulations,	12
(d)	any other circumstances that the accreditation authority considers relevant.	13
(3)	In this Division:	14
	<i>biosecurity certifier</i> includes a former biosecurity certifier.	15
196	Suspension of accreditation	16
(1)	The responsible accreditation authority may, by notice in writing to a biosecurity certifier, suspend the accreditation of the biosecurity certifier if the accreditation authority is satisfied that there are grounds for the suspension of accreditation.	17
(2)	Notice of the suspension must specify:	18
(a)	the date or time from which suspension takes effect, and	19
(b)	the period of suspension, and	20
(c)	the grounds for the suspension.	21
197	Biosecurity certifier to be given opportunity to make submissions about suspension	22
(1)	Before suspending the accreditation of a biosecurity certifier, an accreditation authority must:	23
(a)	give notice in writing to the biosecurity certifier of the accreditation authority's intention to suspend accreditation and the proposed grounds for doing so, and	24
(b)	invite the biosecurity certifier to make a submission to the accreditation authority about the proposed suspension, and	25
(c)	take into account any submission made to the accreditation authority by the biosecurity certifier before the deadline for the making of a submission.	26

- (2) An accreditation authority is to specify a deadline for the making of a submission to the accreditation authority about the proposed suspension that is at least 30 days after the notice of the proposed suspension is given to the biosecurity certifier. 1
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- (3) An accreditation authority is not required to give notice under this section of a proposed suspension if the accreditation authority proposes to suspend the accreditation because the accreditation authority is of the opinion that: 4
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- (a) the suspension relates to a matter of critical non-compliance, or 7
- (b) the biosecurity certifier has issued a biosecurity certificate that is false or misleading in a material particular or has otherwise engaged in fraudulent behaviour. 8
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- (4) However, if the accreditation authority suspends accreditation of a biosecurity certifier without giving prior notice to the biosecurity certifier, the accreditation authority must: 11
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- (a) give the biosecurity certifier notice in writing of the grounds for the suspension, and 14
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- (b) invite the biosecurity certifier to make a submission to the accreditation authority about the suspension by a specified deadline that is at least 30 days after the notice is given to the biosecurity certifier. 16
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- (5) If the biosecurity certifier makes a submission to the accreditation authority about the suspension before the specified deadline, the accreditation authority must: 19
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- (a) decide whether the suspension should be revoked or continued, having regard to that submission, and 21
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- (b) give notice in writing of that decision to the biosecurity certifier. 23
- 198 Cancellation of accreditation** 24
- (1) The responsible accreditation authority may, by notice in writing to a biosecurity certifier, cancel the accreditation of the biosecurity certifier if: 25
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- (a) there are grounds for the cancellation of accreditation, or 27
- (b) the biosecurity certifier applies for cancellation of accreditation. 28
- (2) Notice of the cancellation must specify: 29
- (a) the date or time from which cancellation takes effect, and 30
- (b) the grounds for the cancellation. 31
- 199 Biosecurity certifier to be given opportunity to make submissions about cancellation** 32
- (1) Before cancelling the accreditation of a biosecurity certifier, an accreditation authority must: 33
34
- (a) give notice in writing to the biosecurity certifier of the accreditation authority's intention to cancel accreditation and the proposed grounds for doing so, and 35
36
37
- (b) invite the biosecurity certifier to make a submission to the accreditation authority about the proposed cancellation, and 38
39
- (c) take into account any submission made to the accreditation authority by the biosecurity certifier before the deadline for the making of a submission. 40
41
- (2) An accreditation authority must specify a deadline for the making of a submission to the accreditation authority about the proposed cancellation that is at least 30 days after the notice of the proposed cancellation is given to the biosecurity certifier. 42
43
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(3)	An accreditation authority is not required to give notice under this section of a proposed cancellation if:	1
		2
(a)	the accreditation of the biosecurity certifier is suspended and either:	3
(i)	the biosecurity certifier was given an opportunity to make a submission about the suspension before the suspension took effect, or	4
		5
(ii)	the biosecurity certifier was given an opportunity to make a submission about the suspension after the suspension took effect, and the period specified by the accreditation authority for the making of that submission has ended, or	6
		7
		8
		9
(b)	the biosecurity certifier has applied for cancellation of accreditation.	10
200	Effect of suspension or cancellation on conditions	11
(1)	Accreditation may be suspended or cancelled unconditionally or subject to such conditions as the accreditation authority imposes.	12
		13
(2)	Those conditions may include (but are not limited to) any conditions to which the accreditation was subject immediately before it was suspended or cancelled.	14
		15
(3)	The accreditation authority may, by notice in writing given to the former biosecurity certifier, attach new conditions to, or vary or revoke any existing conditions of, the suspension or cancellation of the accreditation.	16
		17
		18
Division 6	Miscellaneous	19
201	Offence of contravening conditions of accreditation	20
(1)	A biosecurity certifier or former biosecurity certifier who contravenes a condition of accreditation imposed by or under this Part is guilty of an offence.	21
		22
(2)	An offence against this section is a category 2 offence.	23
(3)	A person who is guilty of an offence against this section because the person contravenes a requirement of a condition of accreditation to do or refrain from doing something:	24
		25
		26
(a)	continues, until the requirement is complied with and despite the fact that any specified period or time for compliance has expired or passed, to be liable to comply with the requirement, and	27
		28
		29
(b)	is guilty of a continuing offence for each day the contravention continues.	30
(4)	Subsection (3) does not apply to the extent that a requirement of a condition is revoked.	31
		32
202	Impersonation of biosecurity certifier	33
(1)	A person who impersonates a biosecurity certifier is guilty of an offence.	34
(2)	An offence against this section is a category 2 offence.	35
(3)	In this section:	36
	<i>biosecurity certifier</i> includes a person who is accredited or otherwise authorised by or under a corresponding law to issue, alter or amend an interstate biosecurity certificate.	37
		38
		39
203	Appeal to Land and Environment Court	40
(1)	A person aggrieved by any of the following decisions may appeal to the Land and Environment Court against the decision:	41
		42
(a)	a decision of an accreditation authority to refuse accreditation,	43

- | | | |
|-----|---|------------------|
| (b) | a decision of an accreditation authority to refuse to renew accreditation, | 1 |
| (c) | a decision of an accreditation authority to suspend or cancel accreditation, | 2 |
| (d) | a decision of an accreditation authority to refuse to revoke a suspension of accreditation following the making of a submission by the biosecurity certifier under this Part, being a suspension of which the biosecurity certifier was not given prior notice, | 3
4
5
6 |
| (e) | a decision of an accreditation authority to impose any condition on accreditation, or on the suspension or cancellation of accreditation, | 7
8 |
| (f) | a decision of an accreditation authority to vary accreditation. | 9 |
| (2) | An appeal is to be made in accordance with rules of court, but may not be made more than 28 days after the date written notice of the decision is served on the person. | 10
11 |
| (3) | Subject to any order made by the Land and Environment Court, an appeal does not operate to stay the decision to which the appeal relates. | 12
13 |

Part 15 Biosecurity audits	1
Division 1 Biosecurity audits	2
204 Biosecurity audits	3
Two types of audit may be carried out under this Act (each of which is a <i>biosecurity audit</i>), as follows:	4
(a) an accreditation audit,	5
(b) a compliance audit.	6
205 Audits to be carried out by biosecurity auditor only	7
A biosecurity audit may be carried out only by a biosecurity auditor.	8
206 Biosecurity audits are mandatory	9
A biosecurity audit is mandatory when required by the Secretary or an accreditation authority under this Act.	10
207 Audit target—meaning	11
In this Part, the <i>audit target</i> is the person the subject of a biosecurity audit.	12
Division 2 Accreditation audits	13
208 Accreditation audit	14
An <i>accreditation audit</i> is an audit that is carried out for the purposes of assessing:	15
(a) an application for the grant or renewal of, or variation to, biosecurity registration, or	16
(b) an application for the grant or renewal of, or variation to, accreditation as a biosecurity certifier, or	17
(c) an application for the grant or renewal of, or variation to, appointment as a biosecurity auditor, or	18
(d) an application for the grant or renewal of, or variation to, a permit, or	19
(e) an application for the grant or renewal of, or variation to, approval to exercise any of the functions of an accreditation authority under this Act.	20
209 Who can require accreditation audit	21
(1) The Secretary may require an accreditation audit to be carried out in relation to any of the following applications:	22
(a) an application for the grant or renewal of, or variation to, biosecurity registration,	23
(b) an application for the grant or renewal of, or variation to, approval to exercise any of the functions of an accreditation authority under this Act,	24
(c) an application for the grant or renewal of, or variation to, a permit.	25
(2) An accreditation authority may require an accreditation audit to be carried out in relation to any of the following applications:	26
(a) an application for the grant or renewal of, or variation to, accreditation as a biosecurity certifier that is made to the accreditation authority,	27
(b) an application for the grant or renewal of, or variation to, appointment as a biosecurity auditor that is made to the accreditation authority.	28

(3)	An accreditation authority, other than the Secretary, must require an accreditation audit to be carried out in relation to an application if:	1
		2
(a)	it is directed to do so by the Secretary, or	3
(b)	it is required to do so under the conditions of its approval as an accreditation authority.	4
		5
(4)	A person who requires an accreditation audit is to give the audit target notice in writing of the decision to require an accreditation audit.	6
		7
(5)	A reference in this Division to the person who requires an accreditation audit is a reference to the person who requires the accreditation audit under the power conferred by this section.	8
		9
		10
210	Engagement of auditor	11
(1)	A person who requires an accreditation audit may:	12
(a)	engage a biosecurity auditor to carry out the audit, or	13
(b)	direct the audit target to engage a biosecurity auditor to carry out the audit.	14
(2)	If the person who requires the accreditation audit directs the audit target to engage a biosecurity auditor to carry out the audit, the person may specify requirements relating to the engagement of the biosecurity auditor and the scope of the accreditation audit.	15
		16
		17
		18
211	Functions of biosecurity auditor in relation to accreditation audit	19
(1)	A biosecurity auditor has the following functions in connection with an accreditation audit, subject to any limitations specified in his or her instrument of engagement:	20
		21
(a)	to assess the audit target's suitability for the grant, renewal or variation of biosecurity registration, accreditation as a biosecurity certifier, appointment as a biosecurity auditor, a permit or approval as an accreditation authority (as the case requires),	22
		23
		24
		25
(b)	to assess whether the audit target has the qualifications, skills, knowledge and experience (if any) required for biosecurity registration, accreditation as a biosecurity certifier, appointment as a biosecurity auditor, a permit or approval as an accreditation authority (as the case requires),	26
		27
		28
		29
(c)	to assess the audit target's compliance with, and capability of complying with, the requirements imposed or proposed to be imposed by or under this Act,	30
		31
(d)	to report to the person who requires the accreditation audit on the biosecurity auditor's assessment of those matters.	32
		33
(2)	A biosecurity auditor has such other functions in connection with an accreditation audit as are prescribed by the regulations or, subject to the regulations, conferred on the biosecurity auditor by his or her instrument of engagement.	34
		35
		36
212	Recovery of fee for accreditation audit	37
(1)	A person who requires an accreditation audit may charge the audit target a reasonable fee for the carrying out of an accreditation audit by a biosecurity auditor engaged by the person.	38
		39
		40
(2)	If the person who requires the accreditation audit is the Secretary, the fee:	41
(a)	is a recoverable amount that is payable to the Secretary, and	42
(b)	is recoverable from the audit target.	43
	Note. See Part 20, which provides for the recovery of recoverable amounts.	44

(3)	If the person who requires the accreditation audit is an accreditation authority (other than the Secretary), the fee is recoverable by the accreditation authority as a debt in a court of competent jurisdiction.	1 2 3
(4)	An audit target is responsible for any fee payable in connection with an accreditation audit conducted by a biosecurity auditor engaged by the audit target.	4 5
213	Use of accreditation audit	6
	A person who requires an accreditation audit is to have regard to that accreditation audit in exercising the person's functions under this Act in relation to the audit target.	7 8
Division 3	Compliance audits	9
214	Compliance audit	10
	A <i>compliance audit</i> is an audit that is carried out for any of the following purposes:	11
(a)	to assess compliance with, and capability of complying with, the requirements imposed by or under this Act,	12 13
(b)	to assess or identify any contravention or suspected contravention of the requirements imposed by or under this Act (including any contravention or other deficiency identified in another biosecurity audit),	14 15 16
(c)	to identify measures for improved compliance with the requirements imposed by or under this Act.	17 18
215	Who can require compliance audit	19
(1)	The Secretary may require a compliance audit to be carried out in relation to any person at any time.	20 21
(2)	An accreditation authority, other than the Secretary, may require a compliance audit to be carried out in relation to a person who is or was formerly a biosecurity certifier or biosecurity auditor at any time, but only if the accreditation authority is the responsible accreditation authority for the accreditation or appointment of the person.	22 23 24 25 26
(3)	A person who requires a compliance audit to be carried out is to give the audit target notice of the decision to require a compliance audit.	27 28
(4)	A reference in this Division to the person who requires, or can require, a compliance audit is a reference to the person who requires, or who has power to require, the compliance audit under the power conferred by this section.	29 30 31
216	Decision to require compliance audit	32
(1)	A person who can require a compliance audit must, in making a decision about whether to require the compliance audit, or the frequency of compliance audits, have regard to the following:	33 34 35
(a)	the person's audit frequency policy,	36
(b)	the compliance history of the audit target,	37
(c)	any previous biosecurity audits carried out in relation to the audit target that the person considers relevant (including any deficiencies identified in those audits),	38 39 40
(d)	any information provided to the person by authorised officers about compliance with requirements imposed by or under this Act,	41 42
(e)	any other matters the person considers relevant.	43

(2)	An accreditation authority (other than the Secretary) must require a compliance audit to be carried out in relation to a person if:	1
		2
(a)	it is directed to do so by the Secretary, or	3
(b)	it is required to do so under the conditions of its approval as an accreditation authority.	4
		5
(3)	Subsection (1) applies to a decision of the Secretary to direct an accreditation authority to require a compliance audit as if the Secretary were requiring the compliance audit.	6
		7
		8
217	Audit frequency policy	9
(1)	A person who can require a compliance audit is required to adopt an audit frequency policy for the purposes of this Act.	10
		11
(2)	An audit frequency policy may make provision for or with respect to the following matters:	12
		13
(a)	the frequency of compliance audits,	14
(b)	any other matters that are prescribed by the regulations.	15
(3)	An audit frequency policy adopted by a person who can require a compliance audit (other than the Secretary) has no effect unless it has been approved in writing by the Secretary.	16
		17
		18
(4)	A person may amend or replace an audit frequency policy adopted by the person.	19
(5)	Subsection (3) applies in relation to the amendment or replacement of an audit frequency policy in the same way as it applies to the adoption of an audit frequency policy.	20
		21
		22
(6)	However, subsection (3) does not apply to an amendment of an audit frequency policy if the person making the amendment certifies that the amendment is minor in nature or for the purpose of correcting an error.	23
		24
		25
(7)	An audit frequency policy may apply generally or apply differently according to different factors of a specified kind, such as the following:	26
		27
(a)	the type of biosecurity matter involved,	28
(b)	the type of activity involved and the level of biosecurity risk associated with that activity,	29
		30
(c)	the class of biosecurity registration or accreditation involved (if any).	31
(8)	A person who can require a compliance audit is to make the person's audit frequency policy publicly available.	32
		33
(9)	A reference in this Act to a person's audit frequency policy is a reference to the audit frequency policy adopted by the person or, if the person has more than one policy, the audit frequency policy that is relevant to the audit concerned.	34
		35
		36
218	Engagement of auditor	37
(1)	A person who requires a compliance audit may:	38
		39
(a)	engage a biosecurity auditor to carry out the audit, or	39
(b)	direct the audit target to engage a biosecurity auditor to carry out the audit.	40
(2)	The person who requires the compliance audit may direct the audit target to engage a biosecurity auditor to carry out an audit only if the audit target is a biosecurity participant.	41
		42
		43

(3)	If the person who requires the compliance audit to be carried out directs the audit target to engage a biosecurity auditor to carry out the audit, the person may specify requirements relating to the engagement of the biosecurity auditor and the scope of the compliance audit.	1 2 3 4
219	Functions of biosecurity auditor in relation to compliance audit	5
(1)	A biosecurity auditor has the following functions in connection with a compliance audit, subject to any limitations specified in his or her instrument of engagement:	6 7
(a)	to assess the audit target's compliance with, and capability of complying with, the requirements imposed by or under this Act,	8 9
(b)	to assess or identify any contravention or suspected contravention of the requirements imposed by or under this Act (including any contravention or other deficiency identified in another biosecurity audit),	10 11 12
(c)	to identify measures for improved compliance with the requirements imposed by or under this Act,	13 14
(d)	to report to the person who requires the audit on the biosecurity auditor's assessment of those matters.	15 16
(2)	A biosecurity auditor has such other functions in connection with a compliance audit as are prescribed by the regulations or, subject to the regulations, conferred on the biosecurity auditor by his or her instrument of engagement.	17 18 19
220	Recovery of fee for compliance audit	20
(1)	A person who requires a compliance audit may charge the audit target a reasonable fee for the carrying out of a compliance audit by a biosecurity auditor engaged by the person, but only if the audit target is a biosecurity participant.	21 22 23
(2)	If the person who requires the compliance audit is the Secretary, the fee:	24
(a)	is a recoverable amount that is payable to the Secretary, and	25
(b)	is recoverable from the audit target.	26
	Note. See Part 20, which provides for the recovery of recoverable amounts.	27
(3)	If the person who requires the compliance audit is an accreditation authority (other than the Secretary), the fee is recoverable by the accreditation authority as a debt in a court of competent jurisdiction.	28 29 30
(4)	An audit target is responsible for any fee payable in connection with a compliance audit conducted by a biosecurity auditor engaged by the audit target.	31 32
221	Use of compliance audit	33
	A person who requires a compliance audit is to have regard to that compliance audit in exercising the person's functions under this Act in relation to the audit target.	34 35
Division 4	Functions of biosecurity auditor	36
222	General functions	37
	A biosecurity auditor has the following functions:	38
(a)	carrying out biosecurity audits,	39
(b)	any other functions conferred by or under this Act.	40
223	Entry to premises	41
(1)	A biosecurity auditor who is an authorised officer may exercise his or her functions as a biosecurity auditor on premises entered under Part 8.	42 43

(2)	A biosecurity auditor who is not an authorised officer may accompany an authorised officer who enters premises under Part 8 for the purpose of exercising the biosecurity auditor's functions as a biosecurity auditor.	1 2 3
(3)	This section does not prevent a biosecurity auditor from:	4
(a)	entering or remaining on any premises, or doing anything else on premises, with the consent of the occupier of the premises, or	5 6
(b)	entering or remaining in any public place while that place is open to the public.	7
	Note. Failure to consent to entry by a biosecurity auditor, or to co-operate with a biosecurity audit, may constitute a contravention of conditions of biosecurity registration, a permit, accreditation as a biosecurity certifier, appointment as a biosecurity auditor or approval as an accreditation authority.	8 9 10 11
224	Use of assistants	12
	A biosecurity auditor exercising a function conferred by or under this Act may exercise the function with the assistance of such other persons as the biosecurity auditor considers necessary, subject to any conditions of appointment as a biosecurity auditor.	13 14 15 16
225	Reporting requirements	17
(1)	A biosecurity auditor must prepare a written report about each biosecurity audit.	18
(2)	A copy of the report must be submitted:	19
(a)	to the person who required the audit to be carried out, and	20
(b)	to the audit target.	21
(3)	The report must be submitted within 21 days after completion of the biosecurity audit or, if another period is prescribed by the regulations, within the prescribed period.	22 23
(4)	The report must indicate the biosecurity auditor's opinion as to the following:	24
(a)	whether or not the audit target is complying, and capable of complying, with the requirements imposed by or under this Act,	25 26
(b)	the requirements imposed by or under this Act that the audit target is not complying with or not capable of complying with,	27 28
(c)	if the biosecurity audit indicates contraventions of the requirements imposed by or under this Act or other deficiencies:	29 30
(i)	the nature of those contraventions or other deficiencies, and	31
(ii)	the actions that are required to remedy those contraventions or deficiencies,	32 33
(d)	if a previous biosecurity audit has indicated contraventions or other deficiencies, the actions (if any) that have been taken to remedy those contraventions or other deficiencies.	34 35 36
(5)	An accreditation authority must provide to the Secretary a copy of the report submitted to the accreditation authority if directed to do so by the Secretary.	37 38
(6)	The regulations may require further matters to be included in the report.	39
226	Certain matters to be reported immediately	40
(1)	A biosecurity auditor must report to the Secretary if, during a biosecurity audit, the biosecurity auditor becomes aware of, or suspects, any of the following occurrences:	41 42
(a)	any instance of critical non-compliance by the audit target,	43
(b)	that a biosecurity certificate has been issued that is false or misleading in a material particular,	44 45

- (c) that a person is in possession of biosecurity matter in contravention of a requirement imposed by or under this Act, 1
2
- (d) any occurrence of a kind prescribed by the regulations. 3
- (2) The report must be given to the Secretary in writing as soon as possible but in any case within 24 hours after the biosecurity auditor becomes aware of the matter. 4
5
- (3) The requirement imposed by this section is taken to be a condition of appointment as a biosecurity auditor. 6
7

Division 5 Offences relating to biosecurity audits 8

227 Obstruction of biosecurity auditor 9

- (1) A person who obstructs or hinders a biosecurity auditor in the exercise of the biosecurity auditor's functions under this Act is guilty of an offence. 10
11
- (2) An offence against subsection (1) is a category 2 offence. 12
- (3) A person does not obstruct or hinder a biosecurity auditor by refusing permission to enter or remain on premises, unless: 13
14
 - (a) the biosecurity auditor has the power under this Act to enter and remain on those premises because the biosecurity auditor is an authorised officer or is in the company of an authorised officer, or 15
16
17
 - (b) the biosecurity auditor enters the premises under the power conferred by a search warrant. 18
19
- (4) However, any such refusal may constitute a contravention of the conditions of biosecurity registration, a permit, accreditation as a biosecurity certifier, appointment as a biosecurity auditor or approval as an accreditation authority. 20
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228 Provision of false or misleading information to biosecurity auditor 23

- (1) A person who, in connection with a biosecurity audit, furnishes any information to a biosecurity auditor that the person knows to be false or misleading in a material particular is guilty of an offence. 24
25
26
- (2) An offence against this section is a category 2 offence. 27
- (3) In this section: 28
biosecurity auditor includes a person acting on behalf of a biosecurity auditor. 29

Part 16	Appointment of biosecurity auditors	1
Division 1	Appointment of biosecurity auditors	2
229	Appointment of auditors by accreditation authority	3
	An accreditation authority may, by instrument in writing, appoint any person as a biosecurity auditor, subject to this Act.	4 5
230	Appointment policy	6
(1)	An accreditation authority that has the power to appoint biosecurity auditors is required to adopt an appointment policy for the purposes of this Act.	7 8
(2)	An appointment policy may make provision for or with respect to the following matters:	9 10
(a)	the qualifications, skills, knowledge and experience required for appointment as a biosecurity auditor by the accreditation authority,	11 12
(b)	any other matters prescribed by the regulations.	13
(3)	An accreditation authority is to make the appointment policy publicly available.	14
(4)	An appointment policy adopted by an accreditation authority (other than the Secretary) has no effect unless it has been approved by the Secretary.	15 16
(5)	An accreditation authority may amend or replace an appointment policy adopted by the accreditation authority.	17 18
(6)	Subsection (4) applies in relation to the amendment or replacement of an appointment policy in the same way as it applies to the adoption of an appointment policy.	19 20 21
(7)	However, subsection (4) does not apply to an amendment of an appointment policy if the accreditation authority certifies that the amendment:	22 23
(a)	is minor in nature or for the purpose of correcting an error, or	24
(b)	is necessary to reflect a change of a course (including a continuing professional development course) or qualification or of the provider of a course or qualification.	25 26 27
(8)	An accreditation authority may adopt different appointment policies for different types of biosecurity auditors or biosecurity audits.	28 29
(9)	A reference in this Act to an accreditation authority's appointment policy is a reference to the appointment policy as adopted by the accreditation authority, being, if the authority has more than one policy, the appointment policy that is relevant to the appointment or type of appointment concerned.	30 31 32 33
231	Effect of appointment	34
(1)	A biosecurity auditor is authorised by his or her appointment to conduct biosecurity audits.	35 36
(2)	The authorisation is subject to any conditions or limitations specified in his or her instrument of appointment.	37 38
(3)	In particular, the authorisation may be limited to a specified class of biosecurity audit.	39 40
(4)	Nothing in this Act authorises or requires a biosecurity auditor to act in contravention of the conditions or limitations of his or her appointment as a biosecurity auditor.	41 42

232	Responsible accreditation authority	1
(1)	An accreditation authority that appoints a person as a biosecurity auditor is the <i>responsible accreditation authority</i> in relation to that appointment.	2 3
(2)	An accreditation authority ceases to be the responsible accreditation authority in relation to an appointment if the appointment is renewed by another accreditation authority. In that case, the accreditation authority that renews the appointment becomes the responsible accreditation authority in relation to the appointment.	4 5 6 7
(3)	The Secretary is entitled, but is not required, to exercise any of the functions of the responsible accreditation authority in relation to an appointment granted or renewed by an accreditation authority.	8 9 10
(4)	If an accreditation authority ceases to be an accreditation authority in relation to appointments generally or any class of appointments, the functions of the responsible accreditation authority in relation to any appointment or class of appointments that has already been granted or renewed by that accreditation authority may be exercised by:	11 12 13 14 15
(a)	any accreditation authority approved by the Secretary to exercise the functions of the accreditation authority in respect of the appointment or class of appointments concerned, or	16 17 18
(b)	if no accreditation authority has been so approved, the Secretary.	19
233	Approval of authorised officer to exercise functions of biosecurity auditor	20
(1)	The Secretary may, by instrument in writing, approve any authorised officer to exercise any specified function or functions of a biosecurity auditor.	21 22
(2)	An approval may apply to a specified authorised officer or to any specified class of authorised officers.	23 24
(3)	An approval may be unconditional, or subject to conditions or limitations.	25
(4)	An approval has effect for the period specified in the instrument of approval or, if no period is specified, until revoked by the Secretary.	26 27
(5)	The Secretary may, by instrument in writing, revoke or amend an approval under this section at any time.	28 29
(6)	The approval of a person as a biosecurity auditor under this section ceases to be in force if the person ceases to be an authorised officer.	30 31
(7)	A person approved to exercise the functions of a biosecurity auditor under this section is taken to be a biosecurity auditor.	32 33
(8)	Nothing in this Act authorises or requires the person to act in contravention of the conditions or limitations of his or her approval to exercise the functions of a biosecurity auditor.	34 35 36
Division 2	Appointment procedure	37
234	Application for appointment	38
(1)	A person may apply to an accreditation authority for appointment as a biosecurity auditor.	39 40
(2)	An application must:	41
(a)	be in a form approved by the accreditation authority, and	42
(b)	be accompanied by the required fee (if any) for the application, and	43

(c)	include or be accompanied by any information or evidence of a kind prescribed by the regulations, and	1 2
(d)	include or be accompanied by any other information or evidence that the accreditation authority reasonably requires to assess the application.	3 4
(3)	An application for appointment is not duly made unless it complies with subsection (2).	5 6
(4)	In this section: <i>required fee</i> means:	7 8
(a)	if the accreditation authority is the Secretary—the fee prescribed by the regulations, or	9 10
(b)	in any other case—the fee required by the accreditation authority.	11
235	Grant or refusal of appointment	12
(1)	The accreditation authority may, on application, grant or refuse appointment as a biosecurity auditor.	13 14
(2)	The accreditation authority may refuse appointment as a biosecurity auditor:	15
(a)	if the application for appointment is not duly made, or	16
(b)	if the accreditation authority is not satisfied that the applicant has the qualifications, skills, knowledge and experience required for appointment by the accreditation authority's appointment policy, or	17 18 19
(c)	if the accreditation authority is of the opinion that the applicant is not a suitable person to be appointed as a biosecurity auditor, or	20 21
(d)	on any other grounds prescribed by the regulations.	22
(3)	A decision about the suitability of the person for appointment may be made having regard to any of the following:	23 24
(a)	the fact that the applicant has been found guilty of an offence under this Act or the regulations, or an offence under any other Act or law,	25 26
(b)	an accreditation audit,	27
(c)	any other matter prescribed by the regulations,	28
(d)	any other circumstances that the accreditation authority considers relevant.	29
(4)	The accreditation authority is to give the applicant notice in writing of a decision to grant or refuse appointment.	30 31
(5)	An accreditation authority that fails to give an applicant for appointment notice of a decision to grant or refuse appointment within the period prescribed by the regulations is taken to have refused appointment.	32 33 34
236	Duration of appointment	35
(1)	An appointment as a biosecurity auditor that is made under this Part remains in force for a period (not exceeding 5 years) specified by the accreditation authority in any notice by which appointment is granted or renewed, unless sooner cancelled.	36 37 38
(2)	The appointment has no effect during any period in which the appointment is suspended.	39 40

237	Variation of appointment	1
(1)	The responsible accreditation authority may, at any time, by notice in writing to a person who has been appointed as a biosecurity auditor, vary the appointment of the person (including any conditions of appointment imposed by an accreditation authority).	2 3 4 5
(2)	A variation includes the imposition of new conditions on an appointment, the substitution of a condition, or the omission or amendment of a condition.	6 7
(3)	The regulations may make further provision for the variation of an appointment, including:	8 9
(a)	applications for variation, and	10
(b)	fees for applications for variation.	11
	Division 3	
	Renewal of appointment	12
238	Application for renewal of appointment	13
(1)	A biosecurity auditor may apply to an accreditation authority for renewal of appointment as a biosecurity auditor.	14 15
(2)	An application must:	16
(a)	be in a form approved by the accreditation authority, and	17
(b)	be accompanied by the required fee (if any) for the application, and	18
(c)	include or be accompanied by any information or evidence of a kind prescribed by the regulations, and	19 20
(d)	include or be accompanied by any other information or evidence that the accreditation authority reasonably requires to assess the application.	21 22
(3)	An application for renewal of appointment is not duly made unless it complies with subsection (2).	23 24
(4)	If an application for renewal of appointment as a biosecurity auditor is duly made to the responsible accreditation authority before the expiry of the appointment, the appointment is taken to continue in force until the accreditation authority notifies the applicant of a decision to grant or refuse the application.	25 26 27 28
(5)	In this section:	29
	required fee means:	30
(a)	if the accreditation authority is the Secretary—the fee prescribed by the regulations, or	31 32
(b)	in any other case—the fee required by the accreditation authority.	33
239	Grant or refusal of renewal application	34
(1)	An accreditation authority may, on application, renew or refuse to renew appointment as a biosecurity auditor.	35 36
(2)	An accreditation authority may refuse to renew appointment as a biosecurity auditor:	37
(a)	if the application for renewal of appointment is not duly made, or	38
(b)	if the accreditation authority is not satisfied that the applicant has the qualifications, skills, knowledge and experience required for appointment under the accreditation authority's appointment policy, or	39 40 41
(c)	if the accreditation authority is of the opinion that the applicant is not a suitable person to be appointed as a biosecurity auditor, or	42 43

(d)	on any grounds prescribed by the regulations.	1
(3)	A decision about the suitability of the person for appointment may be made having regard to any of the following:	2
		3
(a)	the fact that the applicant has been found guilty of an offence under this Act or the regulations, or an offence under any other Act or law,	4
		5
(b)	any biosecurity audit relating to the person,	6
(c)	any other matter prescribed by the regulations,	7
(d)	any other circumstances that the accreditation authority considers relevant.	8
(4)	An accreditation authority is to give the applicant notice in writing of a decision to grant or refuse renewal of appointment as a biosecurity auditor.	9
		10
(5)	An accreditation authority that fails to give an applicant for renewal of appointment as a biosecurity auditor notice of a decision to grant or refuse the application within the period prescribed by the regulations is taken to have refused to renew the appointment.	11
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Division 4	Conditions of appointment as biosecurity auditor	15
240	Conditions of appointment	16
(1)	Appointment as a biosecurity auditor is subject to the following conditions:	17
(a)	any conditions prescribed by the regulations,	18
(b)	any conditions imposed by the responsible accreditation authority.	19
(2)	The responsible accreditation authority may impose conditions on appointment as a biosecurity auditor:	20
		21
(a)	at the time of the appointment or renewal of appointment, or	22
(b)	at any other time by variation to the appointment.	23
Division 5	Suspension or cancellation of appointment	24
241	Grounds for suspension or cancellation of appointment	25
(1)	Each of the following constitutes grounds for suspending or cancelling appointment as a biosecurity auditor:	26
		27
(a)	the accreditation authority is of the opinion that the biosecurity auditor has contravened a requirement imposed by or under this Act,	28
		29
(b)	the accreditation authority is not satisfied that the biosecurity auditor has the qualifications, skills, knowledge and experience required by the accreditation authority's appointment policy,	30
		31
		32
(c)	the accreditation authority is of the opinion that the biosecurity auditor is not a suitable person to be appointed as a biosecurity auditor,	33
		34
(d)	the accreditation authority receives information about the biosecurity auditor and the accreditation authority is of the opinion that, had the information been received at the time when the application for appointment or renewal of the appointment was made, it would have refused the application,	35
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		38
(e)	any other grounds prescribed by the regulations.	39
(2)	A decision about the suitability of the person for appointment may be made having regard to any of the following:	40
		41
(a)	the fact that the biosecurity auditor has been found guilty of an offence under this Act or the regulations, or an offence under any other Act or law,	42
		43

(b)	a biosecurity audit in relation to the biosecurity auditor,	1
(c)	any matter prescribed by the regulations,	2
(d)	any other circumstances that the accreditation authority considers relevant.	3
(3)	In this Division: <i>biosecurity auditor</i> includes a former biosecurity auditor.	4 5
242	Suspension of appointment	6
(1)	The responsible accreditation authority may, by notice in writing to a biosecurity auditor, suspend the appointment of the biosecurity auditor if there are grounds for the suspension of appointment.	7 8 9
(2)	Notice of the suspension must specify:	10
(a)	the date or time from which the suspension takes effect, and	11
(b)	the period of suspension, and	12
(c)	the grounds for the suspension.	13
243	Biosecurity auditor to be given opportunity to make submissions about suspension	14
(1)	Before suspending the appointment of a biosecurity auditor, an accreditation authority must:	15 16
(a)	give notice in writing to the biosecurity auditor of the accreditation authority's intention to suspend appointment and the proposed grounds for doing so, and	17 18
(b)	invite the biosecurity auditor to make a submission to the accreditation authority about the proposed suspension, and	19 20
(c)	take into account any submission made to the accreditation authority by the biosecurity auditor before the deadline for the making of a submission.	21 22
(2)	An accreditation authority is to specify a deadline for the making of a submission to the accreditation authority about the proposed suspension that is at least 30 days after notice of the proposed suspension is given to the biosecurity auditor.	23 24 25
244	Cancellation of appointment	26
(1)	The responsible accreditation authority may, by notice in writing to a biosecurity auditor, cancel the appointment of the biosecurity auditor if:	27 28
(a)	the responsible accreditation authority is satisfied that there are grounds for the cancellation of the appointment, or	29 30
(b)	the biosecurity auditor applies for cancellation of the appointment.	31
(2)	Notice of the cancellation must specify:	32
(a)	the date or time from which cancellation takes effect, and	33
(b)	the grounds for the cancellation.	34
245	Biosecurity auditor to be given opportunity to make submissions about cancellation	35
(1)	Before cancelling the appointment of a biosecurity auditor, an accreditation authority must:	36 37
(a)	give notice in writing to the biosecurity auditor of the accreditation authority's intention to cancel the appointment and the proposed grounds for doing so, and	38 39
(b)	invite the biosecurity auditor to make a submission to the accreditation authority about the proposed cancellation, and	40 41
(c)	take into account any submission made to the accreditation authority by the biosecurity auditor before the deadline for the making of a submission.	42 43

(2)	The accreditation authority must specify a deadline for the making of a submission to the accreditation authority about the proposed cancellation that is at least 30 days after notice of the proposed cancellation is given to the biosecurity auditor.	1 2 3
(3)	An accreditation authority is not required to give notice under this section of a proposed cancellation if:	4 5
(a)	the appointment of the biosecurity auditor is suspended, or	6
(b)	the biosecurity auditor has applied for cancellation of the appointment.	7
246	Effect of suspension or cancellation on conditions	8
(1)	Appointment as a biosecurity auditor may be suspended or cancelled unconditionally or subject to such conditions as the accreditation authority imposes.	9 10
(2)	Those conditions may include (but are not limited to) any conditions to which the appointment was subject immediately before it was suspended or cancelled.	11 12
(3)	The accreditation authority may, by notice in writing given to the former biosecurity auditor, attach new conditions to, or vary or revoke any existing conditions of, the suspension or cancellation of the appointment.	13 14 15
Division 6	Miscellaneous	16
247	Offence of contravening conditions of appointment	17
(1)	A biosecurity auditor or former biosecurity auditor who contravenes a condition of appointment imposed by or under this Part is guilty of an offence.	18 19
(2)	An offence against this section is a category 2 offence.	20
(3)	A person who is guilty of an offence against this section because the person contravenes a requirement of a condition of appointment to do or refrain from doing something:	21 22 23
(a)	continues, until the requirement is complied with and despite the fact that any specified period or time for compliance has expired or passed, to be liable to comply with the requirement, and	24 25 26
(b)	is guilty of a continuing offence for each day the contravention continues.	27
(4)	Subsection (3) does not apply to the extent that a requirement of a condition is revoked.	28 29
248	Impersonation of biosecurity auditor	30
(1)	A person who impersonates a biosecurity auditor is guilty of an offence.	31
(2)	An offence against this section is a category 2 offence.	32
249	Appeal to Land and Environment Court	33
(1)	A person aggrieved by any of the following decisions may appeal to the Land and Environment Court against the decision:	34 35
(a)	a decision of an accreditation authority to refuse appointment as a biosecurity auditor,	36 37
(b)	a decision of an accreditation authority to refuse to renew appointment as a biosecurity auditor,	38 39
(c)	a decision of an accreditation authority to suspend or cancel appointment as a biosecurity auditor,	40 41

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| (d) | a decision of an accreditation authority to impose any condition on appointment as a biosecurity auditor, or on the suspension or cancellation of appointment as a biosecurity auditor, | 1
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3 |
| (e) | a decision of an accreditation authority to vary appointment as a biosecurity auditor. | 4
5 |
| (2) | An appeal is to be made in accordance with rules of court, but may not be made more than 28 days after the date written notice of the decision is served on the person. | 6
7 |
| (3) | Subject to any order made by the Land and Environment Court, an appeal does not operate to stay the decision to which the appeal relates. | 8
9 |

Part 17 Accreditation authorities	1
Division 1 Accreditation authorities	2
250 Accreditation authority—meaning	3
(1) For the purposes of this Act, an <i>accreditation authority</i> means:	4
(a) the Secretary, or	5
(b) a person for the time being approved by the Secretary under this Part to exercise the functions of an accreditation authority.	6 7
(2) A reference in this Act to an accreditation authority, in relation to any function of an accreditation authority, includes a reference to a person approved by the Secretary to exercise the functions of an accreditation authority only if the accreditation authority is approved to exercise the function concerned.	8 9 10 11
251 Approval of accreditation authority to exercise functions	12
(1) The Secretary may, by instrument in writing, approve any person to exercise the functions of an accreditation authority in relation to any of the following:	13 14
(a) accreditation of biosecurity certifiers under this Act,	15
(b) appointment of biosecurity auditors under this Act.	16
(2) Approval may be unconditional, or subject to conditions or limitations.	17
(3) In particular, an approval may be limited to accreditation in respect of:	18
(a) a specified class of biosecurity certificates or biosecurity certifiers, or	19
(b) a specified class of biosecurity auditors or biosecurity audits.	20
252 Effect of approval	21
(1) A person who is approved to exercise the functions of an accreditation authority may exercise those functions in accordance with this Act.	22 23
(2) Nothing in this Act authorises or requires an accreditation authority to act in contravention of the conditions or limitations of the accreditation authority's approval as an accreditation authority.	24 25 26
Division 2 Approval procedure	27
253 Application for approval	28
(1) A person may apply to the Secretary for approval to exercise the functions of an accreditation authority.	29 30
(2) An application must:	31
(a) be in an approved form, and	32
(b) be accompanied by the fee (if any) prescribed by the regulations, and	33
(c) include or be accompanied by any information or evidence of a kind prescribed by the regulations, and	34 35
(d) include or be accompanied by any other information or evidence that the Secretary reasonably requires to assess the application.	36 37
(3) An application for approval is not duly made unless it complies with subsection (2).	38

254	Grant or refusal of approval	1
(1)	The Secretary may, on application, grant or refuse approval to exercise the functions of an accreditation authority.	2 3
(2)	The Secretary may refuse approval to exercise the functions of an accreditation authority:	4 5
(a)	if the application for approval is not duly made, or	6
(b)	if the Secretary is of the opinion that the applicant is not a suitable person to be approved as an accreditation authority, or	7 8
(c)	on any other grounds prescribed by the regulations.	9
(3)	A decision about the suitability of the person for approval may be made having regard to any of the following:	10 11
(a)	the fact that the applicant has been found guilty of an offence under this Act or the regulations, or an offence under any other Act or law,	12 13
(b)	an accreditation audit,	14
(c)	any matter prescribed by the regulations,	15
(d)	any other circumstances that the Secretary considers relevant.	16
(4)	The Secretary is to give the applicant notice in writing of a decision to grant or refuse approval.	17 18
(5)	If the Secretary fails to give an applicant for approval notice of a decision to grant or refuse approval within the period prescribed by the regulations, the Secretary is taken to have refused approval.	19 20 21
255	Duration of approval	22
(1)	An approval to exercise the functions of an accreditation authority remains in force for a period (not exceeding 5 years) specified by the Secretary in the notice by which approval is granted or renewed, unless sooner cancelled.	23 24 25
(2)	Approval has no effect during any period in which the approval is suspended.	26
256	Variation of approval	27
(1)	The Secretary may, at any time, by notice in writing to a person who has been approved to exercise the functions of an accreditation authority, vary the approval of the person (including any conditions of approval imposed by the Secretary).	28 29 30
(2)	A variation includes the imposition of new conditions on an approval, the substitution of a condition, or the omission or amendment of a condition.	31 32
(3)	The regulations may make further provision for the variation of approval, including:	33
(a)	applications for variation, and	34
(b)	fees for applications for variation.	35
Division 3	Renewal of approval	36
257	Application for renewal of approval	37
(1)	An accreditation authority may apply to the Secretary for renewal of approval to exercise the functions of an accreditation authority.	38 39
(2)	An application must:	40
(a)	be in an approved form, and	41

	(b) be accompanied by the fee (if any) prescribed by the regulations for the application, and	1 2
	(c) include or be accompanied by any information or evidence of a kind prescribed by the regulations, and	3 4
	(d) include or be accompanied by any other information or evidence that the Secretary reasonably requires to assess the application.	5 6
	(3) An application for approval is not duly made unless it complies with subsection (2).	7
	(4) If an application for renewal of approval is duly made to the Secretary before the expiry of approval, approval is taken to continue in force until the Secretary notifies the applicant of a decision to grant or refuse the application.	8 9 10
258	Grant or refusal of renewal application	11
	(1) The Secretary may, on application, renew or refuse to renew an approval to exercise the functions of an accreditation authority.	12 13
	(2) The Secretary may refuse to renew an approval to exercise the functions of an accreditation authority:	14 15
	(a) if the application for renewal of approval is not duly made, or	16
	(b) if the Secretary is of the opinion that the applicant is not a suitable person to be approved as an accreditation authority, or	17 18
	(c) on any other grounds prescribed by the regulations.	19
	(3) A decision about the suitability of the person for approval may be made having regard to any of the following:	20 21
	(a) the fact that the applicant has been found guilty of an offence under this Act or the regulations, or an offence under any other Act or law,	22 23
	(b) any biosecurity audit relating to the person,	24
	(c) any other matter prescribed by the regulations,	25
	(d) any other circumstances that the Secretary considers relevant.	26
	(4) The Secretary is to give the applicant notice in writing of a decision to renew or refuse to renew an approval.	27 28
	(5) If the Secretary fails to give an applicant for renewal of approval notice of a decision to renew or refuse to renew an approval within the period prescribed by the regulations, the Secretary is taken to have refused to renew the approval.	29 30 31
Division 4	Conditions of approval	32
259	Conditions of approval	33
	(1) An approval to exercise the functions of an accreditation authority is subject to the following conditions:	34 35
	(a) any conditions prescribed by the regulations,	36
	(b) any conditions imposed by the Secretary.	37
	(2) The Secretary may impose conditions on an approval:	38
	(a) at the time of the grant or renewal of the approval, or	39
	(b) at any other time by variation to the approval.	40

Division 5	Suspension or cancellation of approval	1
260	Grounds for suspension or cancellation of approval	2
(1)	Each of the following constitutes grounds for suspending or cancelling approval to exercise the functions of an accreditation authority:	3
(a)	the Secretary is of the opinion that the accreditation authority has contravened a requirement imposed by or under this Act,	4
(b)	the Secretary is of the opinion that the accreditation authority is not a suitable person to be approved to exercise the functions of an accreditation authority,	5
(c)	the Secretary receives information about the accreditation authority and the Secretary is of the opinion that, had the information been received at the time when the application for approval or renewal of the approval was made, the Secretary would have refused the application,	6
(d)	any other grounds prescribed by the regulations.	7
(2)	A decision about the suitability of the person for approval may be made having regard to any of the following:	8
(a)	the fact that the accreditation authority has been found guilty of an offence under this Act or the regulations, or an offence under any other Act or law,	9
(b)	a biosecurity audit,	10
(c)	any matter prescribed by the regulations,	11
(d)	any other circumstances that the Secretary considers relevant.	12
(3)	In this Division:	13
	<i>accreditation authority</i> includes a former accreditation authority.	14
261	Suspension of approval	15
(1)	The Secretary may, by notice in writing to an accreditation authority, suspend approval to exercise the functions of an accreditation authority if there are grounds for the suspension of approval.	16
(2)	Notice of the suspension must specify:	17
(a)	the date or time from which suspension takes effect, and	18
(b)	the period of suspension, and	19
(c)	the grounds for the suspension.	20
262	Accreditation authority to be given opportunity to make submissions about suspension	21
(1)	Before suspending an approval to exercise the functions of an accreditation authority, the Secretary must:	22
(a)	give notice in writing to the accreditation authority of the Secretary's intention to suspend approval and the proposed grounds for doing so, and	23
(b)	invite the accreditation authority to make a submission to the Secretary about the proposed suspension, and	24
(c)	take into account any submission made to the Secretary by the accreditation authority before the deadline for the making of a submission.	25
(2)	The Secretary is to specify a deadline for the making of a submission to the Secretary about the proposed suspension that is at least 30 days after the notice is given to the accreditation authority.	26

263	Cancellation of approval	1
(1)	The Secretary may, by notice in writing to an accreditation authority, cancel approval to exercise the functions of an accreditation authority if:	2
	(a) the Secretary is satisfied that there are grounds for the cancellation of approval, or	3
	(b) the accreditation authority applies for cancellation of approval.	4
(2)	Notice of the cancellation must specify:	5
	(a) the date or time from which cancellation takes effect, and	6
	(b) the grounds for the cancellation.	7
264	Accreditation authority to be given opportunity to make submissions about cancellation	8
(1)	Before cancelling an approval to exercise the functions of an accreditation authority, the Secretary must:	9
	(a) give notice in writing to the accreditation authority of the Secretary's intention to cancel approval and the proposed grounds for doing so, and	10
	(b) invite the accreditation authority to make a submission to the Secretary about the proposed cancellation, and	11
	(c) take into account any submission made to the Secretary by the accreditation authority before the deadline for the making of a submission.	12
(2)	The Secretary is to specify a deadline for the making of a submission to the Secretary about the proposed cancellation that is at least 30 days after the notice is given to the accreditation authority.	13
(3)	The Secretary is not required to give notice under this section of a proposed cancellation if:	14
	(a) the approval of the accreditation authority is suspended, or	15
	(b) the accreditation authority has applied for cancellation of approval.	16
265	Effect of suspension or cancellation on conditions	17
(1)	An approval to exercise the functions of an accreditation authority may be suspended or cancelled unconditionally or subject to such conditions as the Secretary imposes.	18
(2)	Those conditions may include (but are not limited to) any conditions to which the approval was subject immediately before it was suspended or cancelled.	19
(3)	The Secretary may, by notice in writing given to the former accreditation authority, attach new conditions to, or vary or revoke any existing conditions of, the suspension or cancellation of the approval.	20
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(a)	continues, until the requirement is complied with and despite the fact that any specified period or time for compliance has expired or passed, to be liable to comply with the requirement, and	1 2 3
(b)	is guilty of a continuing offence for each day the contravention continues.	4
(4)	Subsection (3) does not apply to the extent that a requirement of a condition is revoked.	5 6
267	Appeal to Land and Environment Court	7
(1)	A person aggrieved by any of the following decisions may appeal to the Land and Environment Court against the decision:	8 9
(a)	a decision of the Secretary to refuse approval as an accreditation authority,	10
(b)	a decision of the Secretary to refuse to renew approval as an accreditation authority,	11 12
(c)	a decision of the Secretary to suspend or cancel approval as an accreditation authority,	13 14
(d)	a decision of the Secretary to impose any condition on the grant of approval as an accreditation authority, or on the suspension or cancellation of an approval,	15 16
(e)	a decision of the Secretary to vary approval as an accreditation authority.	17
(2)	An appeal is to be made in accordance with rules of court, but may not be made more than 28 days after the date written notice of the decision is served on the person.	18 19
(3)	Subject to any order made by the Land and Environment Court, an appeal does not operate to stay the decision to which the appeal relates.	20 21
268	Disclosure of information	22
	An accreditation authority is authorised to disclose to the Secretary any information (including personal information within the meaning of the <i>Privacy and Personal Information Protection Act 1998</i>) obtained by the accreditation authority in the exercise of functions under this Act.	23 24 25 26

Part 18 Offences and criminal proceedings	1
Division 1 Criminal proceedings generally	2
269 Maximum penalty for category 1 offence	3
The maximum penalty for a category 1 offence is:	4
(a) in the case of an individual—\$1,100,000 or 3 years imprisonment, or both, and, in the case of a continuing offence, a further penalty of \$137,500 for each day the offence continues, or	5 6 7
(b) in the case of a corporation—\$2,200,000 and, in the case of a continuing offence, a further penalty of \$275,000 for each day the offence continues.	8 9
270 Maximum penalty for category 2 offence	10
(1) The maximum penalty for a category 2 offence is, subject to subsection (2):	11
(a) in the case of an individual—\$220,000 and, in the case of a continuing offence, a further penalty of \$55,000 for each day the offence continues, or	12 13
(b) in the case of a corporation—\$440,000 and, in the case of a continuing offence, a further penalty of \$110,000 for each day the offence continues.	14 15
(2) The maximum penalty for a category 2 offence that is committed negligently is:	16
(a) in the case of an individual—\$1,100,000 and, in the case of a continuing offence, a further penalty of \$137,500 for each day the offence continues, or	17 18
(b) in the case of a corporation—\$2,200,000 and, in the case of a continuing offence, a further penalty of \$275,000 for each day the offence continues.	19 20
(3) An offence is <i>committed negligently</i> if the court that finds the person guilty of the offence is satisfied (to the criminal standard of proof) that the person committed the offence negligently.	21 22 23
(4) A court cannot impose a penalty for an offence on the basis of subsection (2) unless the process by which the proceedings are commenced specifies that the offence is alleged to have been committed negligently and the factors that were alleged to constitute negligence.	24 25 26 27
271 Negligence—meaning	28
For the purposes of this Act, a person is <i>negligent</i> if the person’s conduct involves such a great falling short of the standard of care that a reasonable person would exercise in the circumstances that the conduct merits criminal punishment.	29 30 31
272 Special requirements for prosecution of category 1 offences	32
(1) If conduct can constitute both a category 1 offence and a category 2 offence under the same section of this Act:	33 34
(a) a person cannot be found guilty of a category 1 offence in respect of that conduct unless the process by which the proceedings are commenced specifies that the offence is alleged to be a category 1 offence and the factors that are alleged to make the offence a category 1 offence, and	35 36 37 38
(b) a person cannot be found guilty of both a category 1 offence and a category 2 offence under the section in respect of the same conduct.	39 40
(2) In proceedings for a category 1 offence, if the court is not satisfied that the offence is proven, but is satisfied that the person committed a category 2 offence under the same section of this Act, the court may find the person guilty of that category 2 offence. The person is liable to punishment accordingly.	41 42 43 44

(3)	Subsection (2) does not apply if the proceedings for the category 1 offence were commenced more than 2 years after the date on which the offence is alleged to have been committed.	1 2 3
273	Proceedings for offences	4
(1)	Proceedings for an offence against this Act or the regulations are to be disposed of summarily:	5 6
(a)	by the Local Court, or	7
(b)	by the Supreme Court in its summary jurisdiction.	8
(2)	The maximum monetary penalty that may be imposed by the Local Court in proceedings for an offence against this Act or the regulations is \$22,000.	9 10
(3)	The maximum term of imprisonment that the Local Court may impose for an offence against this Act or the regulations is 2 years or the maximum term of imprisonment provided by law for the offence, whichever is the shorter term.	11 12 13
274	Time limit for proceedings	14
(1)	Proceedings for a category 1 offence may be commenced at any time within, but not later than, 3 years after the date on which the offence is alleged to have been committed.	15 16 17
(2)	Proceedings for any offence against this Act that is a category 2 offence, or an offence against the regulations, may be commenced at any time within, but not later than, 2 years after the date on which the offence is alleged to have been committed.	18 19 20
(3)	Proceedings for a category 1 offence may also be commenced at any time within, but not later than, 3 years after the date on which evidence of the alleged offence first came to the attention of any authorised officer.	21 22 23
(4)	If subsection (3) is relied on for the purpose of commencing proceedings for an offence, the process by which the proceedings are commenced must contain particulars of the date on which evidence of the offence first came to the attention of any authorised officer and need not contain particulars of the date on which the offence was committed.	24 25 26 27 28
(5)	The date on which evidence first came to the attention of any authorised officer is the date specified in the process by which the proceedings are commenced, unless the contrary is established.	29 30 31
(6)	In this section: <i>evidence</i> of an offence means evidence of any conduct constituting the offence.	32 33
275	Matters to be considered in imposing penalty	34
(1)	In imposing a penalty on a person for an offence against this Act or the regulations, the court is to take into consideration the following (so far as they are relevant):	35 36
(a)	the extent to which a biosecurity impact was caused or likely to be caused, or a biosecurity risk increased, by the commission of the offence,	37 38
(b)	the extent to which the person could reasonably have foreseen the biosecurity impact or biosecurity risk caused or likely to be caused by the commission of the offence,	39 40 41
(c)	the reasonably practicable measures that may have been taken to prevent, eliminate or minimise that biosecurity impact or biosecurity risk,	42 43
(d)	the extent to which the person had control over the causes that gave rise to the offence,	44 45

- (e) the person's intentions in committing the offence, 1
- (f) whether, in committing the offence, the person was complying with orders from an employer or supervising employee. 2
3
- (2) For the purposes of, but without limiting, section 21A of the *Crimes (Sentencing Procedure) Act 1999*, the following aggravating factors are to be taken into account in determining the appropriate sentence for an offence against this Act or the regulations (so far as they are relevant): 4
5
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7
 - (a) that the conduct was a contravention of an emergency order or a biosecurity direction given in the case of an emergency, 8
9
 - (b) that the offence caused or had the potential to cause a significant biosecurity impact. 10
11
- (3) The court may take into consideration other matters that it considers relevant. 12

Division 2 Facilitation of proof 13

276 Evidentiary certificates 14

- (1) A certificate that is issued by the Secretary and that states any of the following matters is admissible in any legal proceedings and is evidence of the matters so stated: 15
16
17
 - (a) that an instrument was issued, made or given under this Act, or signed, on a specified day, by a specified person, 18
19
 - (b) the terms of any instrument issued, made or given, or purported to be made, issued or given, under this Act, as in force on a specified day or during a specified period, 20
21
22
 - (c) that an instrument issued, made or given under this Act was amended or revoked, the day on which it was amended or revoked, and the terms of any amendment, 23
24
25
 - (d) the terms of any approved form, on a specified day or during a specified period, 26
27
 - (e) the terms of any application made to the Secretary under this Act, 28
 - (f) that a function was delegated under this Act, including the following: 29
 - (i) the person or persons to whom the function was delegated, 30
 - (ii) the date of the delegation, 31
 - (iii) the period during which the delegation had effect, 32
 - (iv) the terms of the delegation, including any restrictions or limitations on the delegation, 33
34
 - (g) that a person who made, gave or issued, or purported to make, give or issue, an instrument under this Act was the holder of a specified office on a specified day or during a specified period, 35
36
37
 - (h) that a person was or was not authorised under this Act (including as a delegate) to exercise specified functions under this Act, on a specified day or during a specified period, 38
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40
 - (i) that a person was or was not, on a specified day or during a specified period, a registered entity under this Act, 41
42
 - (j) that a person was or was not, on a specified day or during a specified period, the holder of a permit under this Act, 43
44

- (k) the terms of any permit issued under this Act, including any conditions or restrictions on a permit, as in force on a specified day or during a specified period, 1
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3
- (l) that a person was, on a specified day or during a specified period: 4
- (i) an authorised officer, or 5
 - (ii) Chief Plant Protection Officer or Deputy Chief Plant Protection Officer, 6
or 7
 - (iii) Chief Veterinary Officer or Deputy Chief Veterinary Officer, or 8
 - (iv) an authorised analyst, 9
- (m) the terms of, and any conditions of or limitations on, the following, as in force on a specified day or during a specified period: 10
11
- (i) a person's appointment as an authorised officer under this Act, 12
 - (ii) an approval that authorises an authorised officer to exercise the functions of a biosecurity certifier or biosecurity auditor, 13
14
- (n) that a person was or was not, on a specified day or during a specified period: 15
- (i) a registered entity, or 16
 - (ii) a biosecurity certifier, or 17
 - (iii) a biosecurity auditor, or 18
 - (iv) an accreditation authority, 19
- (o) the terms of, and any conditions of or limitations on, the following, as in force on a specified day or during a specified period: 20
21
- (i) a person's biosecurity registration, 22
 - (ii) a person's accreditation as a biosecurity certifier under this Act, 23
 - (iii) a person's appointment as a biosecurity auditor under this Act, 24
 - (iv) a person's approval as an accreditation authority, 25
- (p) the suspension or cancellation of any of the following, on a specified day: 26
- (i) biosecurity registration, 27
 - (ii) accreditation as a biosecurity certifier under this Act, 28
 - (iii) appointment as a biosecurity auditor under this Act, 29
 - (iv) approval as an accreditation authority, 30
- (q) that a specified authorised officer gave a specified person a written biosecurity direction on a specified day, and the terms of that biosecurity direction, 31
32
- (r) the terms of any biosecurity undertaking executed, the persons who executed the biosecurity undertaking and the date it was executed, and the terms and date of any variation to or withdrawal from that biosecurity undertaking, 33
34
35
- (s) that a report on a biosecurity audit was received by the Secretary on a particular day, and the particulars of any report so received, 36
37
- (t) that a notice or other information was provided by a person to the Secretary, or any other person authorised by or under this Act to receive the notice or information, on a specified date, and particulars of the notice or information provided, 38
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- (u) that a person was, on a specified date, directed to engage a biosecurity auditor to carry out a biosecurity audit, 42
43
- (v) that an amount payable under this Act by a specified person has, or has not, been paid. 44
45
- (2) For the purposes of this section, a document purporting to be a certificate under this section is, unless the contrary is proved, taken to be such a certificate. 46
47

(3)	In this section:	1
	<i>given</i> includes served.	2
	<i>instrument</i> includes a control order, emergency order or biosecurity certificate.	3
277	Evidence of analysts	4
(1)	A certificate of an authorised analyst stating the result of an analysis or examination is admissible in evidence in any legal proceedings as evidence of the facts stated in the certificate and the correctness of the result of the analysis or examination.	5 6 7
(2)	A certificate of an authorised analyst that, on receipt of a container containing a sample submitted to the analyst by an authorised officer or any other person, the container was sealed and the seal securing the container was unbroken is admissible in evidence in any legal proceedings as evidence:	8 9 10 11
	(a) of the facts stated in the certificate, and	12
	(b) that the sample was the same sample as the one obtained by the authorised officer or other person, and	13 14
	(c) that the sample had not been tampered with before it was received by the analyst.	15 16
(3)	For the purposes of this section, a document purporting to be a certificate under this section is, unless the contrary is proved, taken to be such a certificate.	17 18
(4)	The Secretary may appoint authorised analysts for the purposes of this Act.	19
278	Evidence as to state of mind of corporation	20
(1)	Without limiting any other law or practice regarding the admissibility of evidence, evidence that an officer, employee or agent of a corporation (while acting in his or her capacity as such) had, at any particular time, a particular state of mind, is evidence that the corporation had that state of mind.	21 22 23 24
(2)	In this section, the <i>state of mind</i> of a person includes:	25
	(a) the knowledge, intention, opinion, belief or purpose of the person, and	26
	(b) the person's reasons for the intention, opinion, belief or purpose.	27
279	Evidence of publication of instruments on website	28
(1)	The Secretary is to cause a record to be kept of the publication on the Department's website of any of the following:	29 30
	(a) an emergency order,	31
	(b) a control order,	32
	(c) a general biosecurity direction.	33
(2)	The record must include:	34
	(a) the date of publication, and	35
	(b) the web address of publication, and	36
	(c) the wording of the instrument as published.	37
(3)	In any proceedings for an offence against this Act or the regulations, a certificate issued by the Secretary and stating that records kept by the Secretary under this section indicate that an instrument referred to in subsection (1) was published on the website of the Department on a particular date is admissible and is evidence of the matters stated in the certificate.	38 39 40 41 42
(4)	For the purposes of this section, a document purporting to be a certificate under this section is, unless the contrary is proved, taken to be such a certificate.	43 44

Division 3	Defences and related matters	1
280	Defence of due diligence—category 1 offences	2
	It is a defence to a prosecution under this Act in relation to a category 1 offence if the accused person establishes:	3
		4
	(a) that the commission of the offence was due to causes over which the person had no control, and	5
		6
	(b) that the person took reasonable precautions and exercised due diligence to prevent the commission of the offence.	7
		8
281	Lawful excuse	9
	It is a defence to the prosecution of an offence against this Act or the regulations if the person charged with the offence proves:	10
		11
	(a) that the conduct of the person was authorised or required by or under this Act, or	12
		13
	(b) that the conduct of the person was authorised by or under a law of the Commonwealth.	14
		15
282	Things done by or under the direction of authorised officers	16
	(1) An authorised officer is not guilty of an offence against this Act or the regulations for anything done in good faith in the execution of his or her functions as an authorised officer.	17
		18
		19
	(2) A person is not guilty of an offence against this Act or the regulations for anything done by the person in good faith at the request or under the direction of an authorised officer acting in the execution of his or her functions as an authorised officer.	20
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		22
283	Common carriers	23
	(1) A person is not guilty of a category 2 offence against this Act because of dealing with any biosecurity matter, carrier or potential carrier in the ordinary course of business as a common carrier.	24
		25
		26
	(2) The regulations may:	27
	(a) declare that a person or class of persons is a common carrier for the purposes of this section, and	28
		29
	(b) declare that a person or class of persons is not a common carrier for the purposes of this section.	30
		31
	(3) This section does not apply to the following offences:	32
	(a) an obstruction offence,	33
	(b) an offence of contravening an individual biosecurity direction,	34
	(c) an offence excluded by the regulations.	35
284	Proof of exemptions	36
	In proceedings for an offence against this Act or the regulations, proof that a person was exempt from a requirement imposed by or under this Act, or was authorised by or under this Act to engage in any conduct, lies on the accused person.	37
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Division 4	Court orders in connection with offences	1
285	Operation of Division	2
(1)	Application to proved offences	3
	This Division applies where a court finds an offence against this Act or the regulations proved.	4 5
(2)	Meaning of proved offences	6
	Without limiting the generality of subsection (1), a court finds an offence proved if:	7
(a)	the court convicts the offender of the offence, or	8
(b)	the court makes an order under section 10 of the <i>Crimes (Sentencing Procedure) Act 1999</i> against the offender in relation to the offence (in which case the order is not a punishment for the purposes of that section).	9 10 11
(3)	Definitions	12
	In this Division:	13
	<i>the court</i> means the court that finds the offence proved.	14
	<i>the offender</i> means the person who is found to have committed the offence.	15
286	Orders generally	16
(1)	One or more orders may be made under this Division against the offender.	17
(2)	Orders may be made under this Division in addition to any penalty that may be imposed or any other action that may be taken in relation to the offence.	18 19
(3)	Orders may be made under this Division regardless of whether any penalty is imposed, or other action taken, in relation to the offence.	20 21
287	Orders for restoration and prevention	22
(1)	The court may order the offender to take such steps as are specified in the order, within such time as is so specified (or any further time that the court, on application, may allow):	23 24 25
(a)	to prevent, control, abate or mitigate any biosecurity impact caused by the commission of the offence, or	26 27
(b)	to make good any resulting biosecurity impact, or	28
(c)	to prevent the continuance or recurrence of the offence.	29
(2)	A person who fails to comply with an order under this section is guilty of an offence.	30
(3)	An offence against subsection (2) is a category 2 offence.	31
288	Orders for costs, expenses and compensation at time offence proved	32
(1)	The court may, if it appears to the court that:	33
(a)	a government agency has incurred costs and expenses in connection with:	34
(i)	the prevention, control, abatement or mitigation of any biosecurity impact caused by the commission of the offence, or	35 36
(ii)	making good any resulting biosecurity impact, or	37
(b)	a person (including a government agency) has, by reason of the commission of the offence, suffered loss of or damage to property or has incurred costs and expenses in preventing or mitigating, or in attempting to prevent or mitigate, any such loss or damage,	38 39 40 41

order the offender to pay to the government agency or person the costs and expenses so incurred, or compensation for the loss or damage so suffered, as the case may be, in such amount as is fixed by the order.	1 2 3
(2) The Local Court may not make an order under subsection (1) for the payment of an amount that exceeds the jurisdictional limit of the Local Court under the <i>Civil Procedure Act 2005</i> .	4 5 6
289 Recovery of costs, expenses and compensation after offence proved	7
(1) If, after the court finds the offence proved:	8
(a) a government agency has incurred costs and expenses in connection with:	9
(i) the prevention, control, abatement or mitigation of any biosecurity impact caused by the commission of the offence, or	10 11
(ii) making good any resulting biosecurity impact, or	12
(b) a person (including a government agency) has, by reason of the commission of the offence, suffered loss of or damage to property or has incurred costs and expenses in preventing or mitigating, or in attempting to prevent or mitigate, any such loss or damage,	13 14 15 16
the government agency or person may recover from the offender the costs and expenses incurred or the amount of the loss or damage in any court of competent jurisdiction.	17 18 19
(2) The amount of any such costs and expenses (but not the amount of any such loss or damage) may be recovered as a debt.	20 21
290 Orders regarding costs and expenses of investigation	22
(1) The court may, if it appears to the court that a government agency has reasonably incurred costs and expenses during the investigation of the offence, order the offender to pay to the government agency the costs and expenses so incurred in such amount as is fixed by the order.	23 24 25 26
(2) In this section:	27
<i>costs and expenses</i> , in relation to the investigation of an offence, means the costs and expenses incurred:	28 29
(a) in taking any sample or conducting any inspection, test, measurement or analysis during the investigation of the offence, or	30 31
(b) in transporting, storing or disposing of evidence during the investigation of the offence.	32 33
291 Orders regarding monetary benefits	34
(1) The court may order the offender to pay, as part of the penalty for committing the offence, an additional penalty of an amount the court is satisfied, on the balance of probabilities, represents the amount of any monetary benefits acquired by the offender, or accrued or accruing to the offender, as a result of the commission of the offence.	35 36 37 38 39
(2) The amount of an additional penalty for an offence is not subject to any maximum amount of penalty provided elsewhere by or under this Act.	40 41
(3) The Local Court is not authorised to make an order under this section.	42
(4) In this section:	43
<i>monetary benefits</i> means monetary, financial or economic benefits.	44

292 Prohibition orders	1
(1) The court may do any one or more of the following:	2
(a) order the offender not to deal with any specified biosecurity matter or not to engage in any specified dealing with specified biosecurity matter,	3 4
(b) cancel, suspend or vary any biosecurity registration, permit, accreditation as a biosecurity certifier, appointment as a biosecurity auditor or approval as an accreditation authority held by the offender under this Act,	5 6 7
(c) extend any biosecurity undertaking given by the offender,	8
(d) order the offender not to apply for biosecurity registration, a permit, accreditation as a biosecurity certifier, appointment as a biosecurity auditor or approval as an accreditation authority.	9 10 11
(2) The court may, in an order under this section, fix a period during which the order applies and impose any other requirements the court considers necessary or expedient for enforcement of the order.	12 13 14
(3) A person who fails to comply with an order made under subsection (1) (a) or (c) is guilty of an offence.	15 16
(4) An offence against subsection (3) is a category 2 offence.	17
293 Additional orders	18
(1) The court may do any one or more of the following:	19
(a) order the offender to take specified action to publicise the offence (including the circumstances of the offence) and its biosecurity impact and other consequences and any other orders made against the person,	20 21 22
(b) order the offender to carry out, or contribute a specified amount to the cost of carrying out, a specified project that will promote the objects of this Act,	23 24
(c) order the offender to attend, or to cause an employee or employees or a contractor or contractors of the offender to attend, a training or other course specified by the court.	25 26 27
(2) The Local Court is not authorised to make an order referred to in subsection (1) (b) or (c).	28 29
(3) The court may, in an order under this section, fix a period for compliance and impose any other requirements the court considers necessary or expedient for enforcement of the order.	30 31 32
(4) If the offender fails to comply with an order under subsection (1) (a), the prosecutor or a person authorised by the prosecutor may take action to carry out the order.	33 34
(5) The reasonable cost of taking action referred to in subsection (4) is recoverable by the prosecutor or person taking the action, in a court of competent jurisdiction, as a debt from the offender.	35 36 37
(6) A person who fails to comply with an order made under this section is guilty of an offence.	38 39
(7) An offence against subsection (6) is a category 2 offence.	40
294 Appeals against orders	41
(1) An order made by the Supreme Court under this Division is a sentence for the purposes of the <i>Criminal Appeal Act 1912</i> .	42 43
(2) An order made by the Local Court under this Division is a sentence for the purposes of the <i>Crimes (Appeal and Review) Act 2001</i> .	44 45

Division 5	Penalty notices	1
295	Penalty notices	2
(1)	An authorised officer may serve a penalty notice on a person if it appears to the officer that the person has committed an offence against this Act or the regulations, being an offence prescribed by the regulations as a penalty notice offence.	3 4 5
(2)	A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person can pay, within the time and to the person specified in the notice, the amount of the penalty prescribed by the regulations for the offence if dealt with under this section.	6 7 8 9
(3)	A penalty notice under this section is declared to be a penalty notice for the purposes of the <i>Fines Act 1996</i> .	10 11
(4)	A penalty notice may be served personally or by post.	12
(5)	If the amount of penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.	13 14
(6)	Payment under this section is not to be regarded as an admission of liability for the purpose of, and does not in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.	15 16 17
(7)	The regulations may:	18
(a)	prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and	19 20
(b)	prescribe the amount of penalty payable for the offence if dealt with under this section, and	21 22
(c)	prescribe different amounts of penalties for different offences or classes of offences.	23 24
(8)	The amount of a penalty prescribed under this section for an offence is not to exceed the maximum amount of penalty that could be imposed for the offence by a court.	25 26
(9)	This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.	27 28
296	Restriction on power to issue penalty notices	29
(1)	An authorised officer cannot exercise a power to serve penalty notices under this Division unless the authorised officer is:	30 31
(a)	a government officer, or	32
(b)	a person, or a person of a class, specified by the regulations to be eligible to exercise penalty notice powers.	33 34
(2)	The Minister is not to recommend the making of a regulation under subsection (1) (b) unless the Minister certifies that the regulation is made with the concurrence of the Attorney General.	35 36 37
(3)	In this section:	38
	government officer means an officer or employee of a government agency.	39

Division 6 Ancillary offences

		1
297	Liability of directors etc for offences by corporation—special executive liability offences	2 3
(1)	If a corporation commits a special executive liability offence, a person who is a director of the corporation or who is concerned in the management of the corporation is taken to commit the same offence, unless the person satisfies the court that:	4 5 6
(a)	the person was not in a position to influence the conduct of the corporation in relation to the commission of the offence, or	7 8
(b)	the person, if in such a position, used all due diligence to prevent the commission of the offence by the corporation.	9 10
(2)	The maximum penalty for the offence is the maximum penalty for the special executive liability offence if committed by an individual.	11 12
(3)	For the purposes of this section, a <i>special executive liability offence</i> is any offence against this Act that is specified by this Act to be a special executive liability offence.	13 14
(4)	This section does not affect the liability of the corporation for the special executive liability offence, and applies whether or not the corporation is prosecuted for, or convicted of, the special executive liability offence.	15 16 17
298	Liability of directors etc for offences by corporation—executive liability offences	18
(1)	A person commits an offence against this section if:	19
(a)	a corporation commits an executive liability offence, and	20
(b)	the person is:	21
(i)	a director of the corporation, or	22
(ii)	an individual who is concerned in the management of the corporation and who is in a position to influence the conduct of the corporation in relation to the commission of the executive liability offence, and	23 24 25
(c)	the person:	26
(i)	knows or ought reasonably to know that the executive liability offence (or an offence of the same type) would be or is being committed, and	27 28
(ii)	fails to take all reasonable steps to prevent or stop the commission of that offence.	29 30
(2)	The maximum penalty for the offence is the maximum penalty for the executive liability offence if committed by an individual.	31 32
(3)	For the purposes of this section, an <i>executive liability offence</i> is any offence against this Act that is specified by this Act to be an executive liability offence.	33 34
(4)	The prosecution bears the legal burden of proving the elements of the offence against this section.	35 36
(5)	This section does not affect the liability of the corporation for the executive liability offence, and applies whether or not the corporation is prosecuted for, or convicted of, the executive liability offence.	37 38 39
(6)	This section does not affect the application of any other law relating to the criminal liability of any persons (whether or not directors or other managers of the corporation) who are accessories to the commission of the executive liability offence or are otherwise concerned in, or party to, the commission of the executive liability offence.	40 41 42 43 44

(7) In this section:	1
<i>reasonable steps</i> , in relation to the commission of an executive liability offence, includes, but is not limited to, such action (if any) of the following kinds as is reasonable in all the circumstances:	2
	3
	4
(a) action towards:	5
(i) assessing the corporation's compliance with the provision creating the executive liability offence, and	6
	7
(ii) ensuring that the corporation arranged regular professional assessments of its compliance with the provision,	8
	9
(b) action towards ensuring that the corporation's employees, agents and contractors are provided with information, training, instruction and supervision appropriate to them to enable them to comply with the provision creating the executive liability offence so far as the provision is relevant to them,	10
	11
	12
	13
	14
(c) action towards ensuring that:	15
(i) the plant, equipment and other resources, and	16
(ii) the structures, work systems and other processes,	17
relevant to compliance with the provision creating the executive liability offence are appropriate in all the circumstances,	18
	19
(d) action towards creating and maintaining a corporate culture that does not direct, encourage, tolerate or lead to non-compliance with the provision creating the executive liability offence.	20
	21
	22
299 Liability for complicity	23
A person who:	24
(a) aids, abets, counsels or procures another person to commit an offence against this Act or the regulations, or	25
	26
(b) incites another person to commit an offence against this Act or the regulations, or	27
	28
(c) conspires to commit an offence against this Act or the regulations, or	29
(d) attempts to commit an offence against this Act or the regulations,	30
is guilty of that offence and liable to the penalty prescribed by this Act or the regulations for that offence.	31
	32
300 False or misleading information	33
(1) A person who furnishes information that the person knows to be false or misleading in a material particular:	34
	35
(a) in or in connection with an application under this Act, or	36
(b) in purported compliance with any requirement imposed by or under this Act,	37
is guilty of an offence.	38
(2) An offence against this section is a category 2 offence.	39

Part 19 Compensation

	1
301 Compensation payable to owners of animals, plants and property	2
(1) Compensation is payable under this Part:	3
(a) to the owner of any domestic animal, plant or property that has been destroyed in accordance with an emergency order for the purpose of minimising, eradicating or preventing the spread of emergency biosecurity matter, and	4 5 6
(b) to the owner of any domestic animal or plant that:	7
(i) has been reported to the Secretary or an authorised officer as being affected by, or as having died of, emergency biosecurity matter, and	8 9
(ii) is certified by the Chief Veterinary Officer (in the case of an animal) or the Chief Plant Protection Officer (in the case of a plant) as having died of emergency biosecurity matter.	10 11 12
(2) However, compensation is payable to the owner of a domestic animal or plant under subsection (1) (b) only if the Chief Veterinary Officer or Chief Plant Protection Officer is satisfied that:	13 14 15
(a) there has been no unreasonable delay in reporting the death of the animal or plant, and	16 17
(b) the destruction of the animal or plant would have been required under this Act had the animal or plant not died.	18 19
(3) In this Part:	20
(a) a reference to the Chief Veterinary Officer includes a reference to an authorised officer authorised by the Chief Veterinary Officer to exercise the functions of the Chief Veterinary Officer under this section, and	21 22 23
(b) a reference to the Chief Plant Protection Officer includes a reference to an authorised officer authorised by the Chief Plant Protection Officer to exercise the functions of the Chief Plant Protection Officer under this section.	24 25 26
302 Amount of compensation	27
(1) The amount of compensation payable is the market value of the domestic animal, plant or property immediately before the <i>relevant time</i> as indicated in this section.	28 29
(2) In the case of destroyed property that is not an animal or plant, the relevant time is the time of destruction.	30 31
(3) In the case of an animal or plant that died or was destroyed on account of emergency biosecurity matter, the relevant time is:	32 33
(a) the time of its destruction, or	34
(b) the time when the Secretary or an authorised officer was notified that it was affected by, or died of, the emergency biosecurity matter,	35 36
whichever time is earlier.	37
(4) The regulations may provide for the payment of additional compensation in any specified circumstances and the method by which the additional compensation is to be calculated.	38 39 40
(5) This section does not prevent the Secretary from coming to an agreement with the owner of an animal, plant or property about the amount of compensation payable under this Part (whether or not by reference to market value). In that case, the amount payable is the amount as agreed by the parties.	41 42 43 44
Note. Additional compensation may be payable under a national biosecurity agreement.	45

303	Market value to take no account of emergency biosecurity matter	1
(1)	In assessing the market value of an animal, plant or other property for the purposes of this Part, the animal, plant or property concerned is to be regarded as not suffering from or affected by the emergency biosecurity matter concerned.	2 3 4
(2)	The regulations may make further provision for the calculation of the market value of an animal, plant or property.	5 6
304	Other losses excluded	7
	No compensation is payable under this Part for any loss of profit, loss occasioned by breach of contract, loss of production or any other consequential loss.	8 9
	Note. Compensation may be payable under a national biosecurity agreement.	10
305	Claims	11
	A claim for compensation under this Part in respect of any domestic animal, plant or property which has been destroyed or any domestic animal or plant that has been certified by the Chief Veterinary Officer or Chief Plant Protection Officer as having died of emergency biosecurity matter:	12 13 14 15
(a)	must be in an approved form, and	16
(b)	must be lodged with the Secretary in a manner required by the Secretary within 90 days after the destruction or death or within such further time as the Secretary may in a particular case allow.	17 18 19
306	Recovery of compensation	20
	Disputed claims for compensation payable under this Part may be recovered by action against the Crown in any court of competent jurisdiction.	21 22
307	Grounds for refusal or reduction of claim	23
(1)	The Secretary may direct that compensation otherwise payable under this Part, or such part of it as the Secretary thinks fit, not be paid if the Secretary is of the opinion that:	24 25 26
(a)	the owner of the animal, plant or property that has died or been destroyed has been convicted of an offence in this State, the Commonwealth or any State or Territory of the Commonwealth and the conduct constituting the offence has caused or contributed to:	27 28 29 30
(i)	the spread of the emergency biosecurity matter, or	31
(ii)	the destruction or death of any domestic animal or plant in respect of which a claim for compensation is lodged, or	32 33
(iii)	the destruction of any property in respect of which a claim for compensation is lodged, or	34 35
(b)	the owner of the animal, plant or property that has died or been destroyed is indemnified for the loss caused by the death or destruction of the animal, plant or property concerned under a contract of insurance, or	36 37 38
(c)	the emergency biosecurity matter was, immediately before the emergency order, being kept at the premises at which the animal, plant or property was located before its death or destruction in contravention of a requirement imposed by or under this Act, or	39 40 41 42
(d)	the owner of the animal, plant or property makes a claim for compensation that is false or misleading in a material particular, or	43 44

(e)	the animal, plant or property was required to be destroyed under a control order, biosecurity zone regulation, biosecurity direction or other instrument made under this Act (other than an emergency order).	1 2 3
(2)	The Secretary may direct that compensation otherwise payable under this Part, or such part of it as the Secretary thinks fit, not be paid in any other circumstances prescribed by the regulations.	4 5 6
(3)	The Secretary is to make a direction under this section by order in writing.	7
308	Disputed claims	8
	If any doubt or dispute arises as to the right or entitlement of a person to receive compensation, the Secretary may cause the amount of the compensation payable, or a part of that amount, to be retained until a person has established a right or entitlement to compensation to the satisfaction of the Secretary.	9 10 11 12
309	False claims	13
(1)	Any person who lodges a claim for compensation knowing that it is false or misleading in a material particular, or who practises or is concerned in any fraudulent act or omission for the purpose of obtaining compensation for the person or any other person under this Part, is guilty of an offence.	14 15 16 17
(2)	An offence against this section is a category 1 offence.	18
310	Power to correct decision	19
(1)	If the Secretary decides a claim, and is later satisfied that the decision is incorrect, the Secretary may vary or reverse the decision.	20 21
(2)	A decision cannot be varied or reversed under this section more than 5 years after it was made.	22 23
(3)	The 5-year time limit on varying or reversing a decision does not apply to a decision that was made on the basis of false or misleading information provided by a claimant or by a person on behalf of the claimant.	24 25 26
311	Power to require repayment from claimant	27
(1)	The Secretary may direct a claimant for compensation under this Part to repay to the Secretary an amount, or part of an amount, paid by way of compensation under this Part if the Secretary varies or reverses the decision under which the amount was paid.	28 29 30
(2)	The Secretary is to make a direction under this section by order in writing.	31
(3)	The amount required to be repaid is a recoverable amount that is payable to the Secretary.	32 33
	Note. See Part 20 for recovery of recoverable amounts.	34

Part 20 Recovery of administrative costs and other amounts

Division 1 Preliminary

312 Recoverable amounts

For the purposes of this Act:

- (a) an amount referred to in Column 1 of the Table to this section is a *recoverable amount*, and
- (b) the amount is recoverable from the person specified in relation to the amount concerned in Column 2 of the Table.

Table

Column 1	Column 2
Recoverable amount	Person from whom amount is recoverable
Fee for an application for the grant of, renewal of, or a variation to, biosecurity registration	Person who makes the application
Fee for an application for the grant of, renewal of, or a variation to, accreditation as a biosecurity certifier (if the Secretary is the accreditation authority)	Person who makes the application
Fee for an application for the grant of, renewal of, or a variation to, appointment as a biosecurity auditor (if the Secretary is the accreditation authority)	Person who makes the application
Fee for an application for the grant of, renewal of, or a variation to, approval to exercise the functions of an accreditation authority	Person who makes the application
Fee for an application for the grant of, renewal of, or a variation to, a permit (if the relevant decision-maker is the Secretary or an authorised officer who is an officer or employee of a government agency)	Person who makes the application
Any fee that is a recoverable amount under another provision of this Act	The person declared by that provision to be the person from whom the amount is recoverable
Any amount that is declared by the regulations to be a recoverable amount	The person declared by the regulations to be a person from whom that amount is recoverable

313 Part permits recovery by government agencies only

The power conferred on the Secretary to make a cost recovery order under this Part may be exercised by a delegate of the Secretary, but only if the delegate is an officer of a government agency.

Division 2	Cost recovery orders	1
314	Cost recovery order	2
(1)	The Secretary may, by order in writing served on a person from whom a recoverable amount is recoverable under this Act, require the person to pay that recoverable amount.	3 4 5
(2)	An order under this section is a <i>cost recovery order</i> .	6
(3)	The Secretary may, by notice in writing served on a person, amend or revoke a cost recovery order.	7 8
315	Contents of cost recovery order	9
	A cost recovery order must:	10
(a)	specify the amount of the recoverable amount that is payable to the Secretary, and	11 12
(b)	specify a due date for payment of the recoverable amount (being a date that is not less than 30 days after the date the order is served on the person), and	13 14
(c)	advise the person that, if the recoverable amount is not paid in full by the due date for payment, interest may be charged on the unpaid amount, and	15 16
(d)	if the decision to issue the cost recovery order can be appealed to the Land and Environment Court under this Part, advise the person of the appeal right.	17 18
316	Charging of interest	19
(1)	The Secretary is entitled to charge interest on any amount, or part of an amount, payable to the Secretary under a cost recovery order that is not paid by the due date for payment specified in the cost recovery order.	20 21 22
(2)	The interest rate charged is not to exceed the interest rate payable for the time being on an unpaid judgment of the Supreme Court or, if another rate is prescribed by the regulations, that rate.	23 24 25
(3)	Interest charged on an unpaid amount is taken to be part of the unpaid amount.	26
317	Change in payment arrangements	27
(1)	The Secretary may, on application by a person who is liable to pay a recoverable amount, approve a change in the payment arrangements for a recoverable amount so as:	28 29 30
(a)	to reduce the amount payable, or	31
(b)	to extend the time to pay, or	32
(c)	to permit the amount payable to be paid by instalments or reduce instalments.	33
(2)	Approval is to be given by notice in writing served on the applicant.	34
(3)	Any cost recovery order served on a person before a change in payment arrangements is approved is taken to be amended in accordance with the approval.	35 36
(4)	If the Secretary approves the payment of a recoverable amount by instalments and an instalment is not paid by the due date for payment of the instalment, the remaining instalments immediately become payable.	37 38 39

Division 3	Recovery of compliance costs	1
318	Recovery of amount payable under cost recovery order as debt	2
(1)	The Secretary may, by proceedings in any court of competent jurisdiction, recover as a debt any unpaid amount under a cost recovery order.	3 4
(2)	Proceedings may be taken at any time after the due date for payment specified in the cost recovery order.	5 6
(3)	If this Part confers on a person a right to appeal to the Land and Environment Court against the decision to issue a cost recovery order, the Secretary is not to institute proceedings on the cost recovery order unless:	7 8 9
(a)	the period during which the appeal can be made has elapsed, and	10
(b)	if the person has appealed against the decision, the appeal has been determined.	11 12
319	Registration of cost recovery order as charge on land	13
(1)	The Secretary may apply to the Registrar-General for registration of any unpaid amount under a cost recovery order in relation to any land owned by the person from whom that amount is recoverable (including any land owned jointly with another person).	14 15 16 17
(2)	An application under this section must define the land to which it relates.	18
(3)	The Registrar-General must, on application under this section and lodgment of a copy of the relevant cost recovery order, register the order in relation to the land in such manner as the Registrar-General thinks fit.	19 20 21
(4)	There is created by force of this section, on the registration of the order, a charge on the land in relation to which the order is registered to secure the payment to the Secretary of the amount payable under the order.	22 23 24
(5)	Such a charge ceases to have effect in relation to the land:	25
(a)	on payment to the Secretary of the amount payable under the cost recovery order, or	26 27
(b)	on registration of the cancellation of the charge, made at the request of the Secretary, or	28 29
(c)	on the sale or other disposition of the property with the consent of the Secretary, or	30 31
(d)	on the sale of the land to a purchaser in good faith for value who, at the time of the sale, has no notice of the charge,	32 33
	whichever first occurs.	34
(6)	Such a charge is subject to every charge or encumbrance to which the land was subject immediately before the order was registered and, in the case of land under the provisions of the <i>Real Property Act 1900</i> , is subject to every prior mortgage, lease or other interest recorded in the Register kept under that Act.	35 36 37 38
(7)	Such a charge is not affected by any change of ownership of the land, except as provided by subsection (5).	39 40
(8)	If:	41
(a)	such a charge is created on land of a particular kind and the provisions of any law of the State provide for the registration of title to, or charges over, land of that kind, and	42 43 44

(b)	the charge is so registered,	1
	a person who purchases or otherwise acquires the land after the registration of the charge is, for the purposes of subsection (5), taken to have notice of the charge.	2 3
(9)	If such a charge relates to land under the provisions of the <i>Real Property Act 1900</i> , the charge has no effect until it is registered under that Act.	4 5
(10)	The Secretary may, at any time, request the Registrar-General to cancel a charge registered under this section.	6 7
Division 4	General	8
320	Appeal to Land and Environment Court	9
(1)	A person aggrieved by a decision of the Secretary to issue a cost recovery order in respect of a recoverable amount may appeal to the Land and Environment Court against that decision if the recoverable amount is a fee charged by the Secretary for:	10 11 12
(a)	action taken as a result of a failure by a person to comply with an emergency order, or	13 14
(b)	action taken as a result of a failure by a person to comply with a control order, or	15 16
(c)	action taken under Division 4 of Part 8, or	17
(d)	action taken as a result of a failure by a person to comply with an individual biosecurity direction that was given in the case of an emergency.	18 19
	Note. If the biosecurity direction is not an emergency biosecurity direction, the direction itself can be appealed to the Land and Environment Court. See Part 9.	20 21
(2)	An appeal is to be made in accordance with rules of court, but may not be made more than 28 days after the date written notice of the cost recovery order is served on the person.	22 23 24
(3)	Subject to any order made by the Land and Environment Court, an appeal does not operate to stay the decision to which the appeal relates.	25 26
321	Waiver or remission of recoverable amounts	27
	The Secretary may waive or remit payment of a recoverable amount or any part of a recoverable amount.	28 29
322	Presumed date of service of cost recovery order	30
	It is to be presumed that a cost recovery order or other notice sent to a person by post under this Part is served on the person 7 days after it is posted, unless the person establishes that it was not served within that 7-day period.	31 32 33

Part 21 Permits	1
Division 1 Preliminary	2
323 Relevant decision-maker—meaning	3
In this Part, a <i>relevant decision-maker</i> , in relation to a permit, means a person who has power to grant the permit under this Act.	4 5
324 References to functions exercisable “in the case of an emergency”	6
(1) A provision of this Part that enables a relevant decision-maker to exercise a function <i>in the case of an emergency</i> enables the relevant decision-maker to exercise that function if:	7 8 9
(a) the relevant decision-maker reasonably believes it is necessary to exercise the function because of an emergency order, or	10 11
(b) the relevant decision-maker otherwise reasonably believes it is necessary to exercise the function because:	12 13
(i) a biosecurity emergency has occurred, is occurring or is imminent, or	14
(ii) the relevant decision-maker reasonably suspects a biosecurity emergency has occurred, is occurring or is imminent.	15 16
(2) A function under this Part is taken to have been exercised <i>in the case of an emergency</i> if it is exercised by the relevant decision-maker in the circumstances referred to in subsection (1).	17 18 19
Division 2 Permits	20
325 Grant of permits	21
(1) Permits may be granted under this Act.	22
(2) A permit authorises conduct that, but for the permit, would or might contravene a requirement imposed by or under this Act.	23 24
326 Types of permit	25
(1) The following types of permit may be granted:	26
(a) an <i>individual permit</i> , that is, a permit granted to a specified person,	27
(b) a <i>group permit</i> , that is, a permit granted to a specified class of persons.	28
(2) A reference in this Act to a permit holder includes any person who is a member of the class of persons authorised to engage in conduct by a group permit.	29 30
(3) A requirement under this Act that the grant or renewal of a permit, or the variation, suspension or cancellation of a permit, be notified to the applicant or to a permit holder is taken to have been satisfied, in relation to a group permit, if the grant, renewal, variation, suspension or cancellation is notified by publication on the website of the Department.	31 32 33 34 35
327 Who has power to grant permit	36
(1) The Secretary has power to grant a permit.	37
(2) An authorised officer also has power to grant a permit, unless it is an emergency permit or a prohibited matter permit.	38 39
(3) A permit may be granted or renewed on application or on the initiative of the Secretary or authorised officer.	40 41

328	Emergency permit	1
(1)	Emergency permits can be granted only by the Secretary.	2
(2)	An <i>emergency permit</i> is a permit that authorises conduct that, but for the permit, would or might contravene an emergency order, or biosecurity direction given in the case of an emergency, and that is expressed to apply to the emergency concerned.	3 4 5
329	Prohibited matter permit	6
(1)	Prohibited matter permits can be granted only by the Secretary.	7
(2)	A <i>prohibited matter permit</i> is a permit that authorises dealing with biosecurity matter that is prohibited matter throughout the State or in a part of the State.	8 9
330	Effect of permit	10
(1)	A person is not guilty of an offence against this Act or the regulations if the person was authorised to engage in the conduct alleged to constitute the offence concerned by a permit in force under this Act.	11 12 13
(2)	A permit does not authorise any conduct in contravention of an emergency order, or a biosecurity direction given in the case of an emergency, unless:	14 15
(a)	the permit is an emergency permit, and	16
(b)	the permit is expressed to apply in relation to the emergency concerned.	17
331	Contravention of permit	18
(1)	A person who contravenes a condition of an individual permit is guilty of an offence.	19
(2)	A person who engages in any dealing or other conduct under the purported authority of a group permit and who contravenes a condition of the permit is guilty of an offence.	20 21 22
(3)	An offence against subsection (1) or (2) is a category 1 offence if the contravention is intentional or reckless.	23 24
(4)	In any other case, the offence is a category 2 offence.	25
(5)	A category 1 offence against this section is an executive liability offence.	26
(6)	A person who is guilty of a category 1 offence or category 2 offence against this section because the person contravenes a requirement of a condition of a permit to do or refrain from doing something:	27 28 29
(a)	continues, until the requirement is complied with and despite the fact that any specified period or time for compliance has expired or passed, to be liable to comply with the requirement, and	30 31 32
(b)	is guilty of a continuing offence (of the same category) for each day the contravention continues.	33 34
(7)	Subsection (6) does not apply to the extent that a requirement of a condition is revoked.	35 36
Division 3	Application for permit	37
332	Application for permit	38
(1)	A person may apply to a relevant decision-maker for a permit under this Act.	39
(2)	An application must:	40
(a)	be made in an approved form or approved manner, and	41

(b)	be accompanied by the fee for the permit (if any) prescribed by the regulations for the application concerned, and	1 2
(c)	include or be accompanied by any information or evidence reasonably required by the relevant decision-maker to assess the application.	3 4
(3)	An application for a permit is not duly made unless it complies with subsection (2).	5
333	Grant or refusal of permit	6
(1)	A relevant decision-maker may, on application or on the relevant decision-maker's own initiative, grant or refuse a permit.	7 8
(2)	A relevant decision-maker may refuse a permit:	9
(a)	if an application for the permit is not duly made, or	10
(b)	if the relevant decision-maker is of the opinion that the applicant is not a suitable person to engage in the conduct to be authorised by the permit, or	11 12
(c)	in the case of an emergency, or	13
(d)	on any other grounds prescribed by the regulations, or	14
(e)	for any other reason that the relevant decision-maker considers to be a good reason for refusing the application.	15 16
(3)	A decision about the suitability of the person to be issued with a permit may be made having regard to any of the following:	17 18
(a)	the fact that the applicant has been found guilty of an offence under this Act or the regulations, or an offence under any other Act or law,	19 20
(b)	an accreditation audit,	21
(c)	any other matter prescribed by the regulations,	22
(d)	any other circumstances that the relevant decision-maker considers relevant.	23
(4)	The relevant decision-maker is to give the applicant written or oral notice of a decision to grant or refuse a permit.	24 25
(5)	If notice of the decision is given orally, the relevant decision-maker is to give the applicant written confirmation of the decision as soon as practicable after it is made.	26 27
(6)	A relevant decision-maker who fails to give an applicant for a permit notice of a decision to grant or refuse the permit within the period prescribed by the regulations is taken to have refused the permit.	28 29 30
334	Duration of permit	31
(1)	A permit remains in force for a period (not exceeding 5 years) specified by the relevant decision-maker in the notice by which the permit is granted or renewed, unless sooner cancelled.	32 33 34
(2)	A permit has no effect during any period in which it is suspended.	35
335	Variation of permit	36
(1)	A relevant decision-maker may, at any time, vary a permit by notice in writing to a permit holder (including any conditions of a permit imposed by a relevant decision-maker).	37 38 39
(2)	A variation includes the imposition of new conditions on a permit, the substitution of a condition, or the omission or amendment of a condition.	40 41
(3)	The regulations may make further provision for the variation of permits, including:	42
(a)	applications for variation, and	43

(b)	fees for applications for variation.	1
Division 4	Renewal of permit	2
336	Application for renewal of permit	3
(1)	A permit holder may apply to a relevant decision-maker for renewal of a permit.	4
(2)	An application must:	5
(a)	be made in an approved form or approved manner, and	6
(b)	be accompanied by the fee (if any) prescribed by the regulations for the application concerned, and	7 8
(c)	include or be accompanied by any information or evidence required by the relevant decision-maker to assess the application.	9 10
(3)	An application for a permit is not duly made unless it complies with subsection (2).	11
(4)	If an application for renewal of a permit is duly made to a relevant decision-maker before the expiry of the permit, the permit is taken to continue in force until the relevant decision-maker notifies the applicant of a decision to grant or refuse the application.	12 13 14 15
337	Grant or refusal of renewal	16
(1)	A relevant decision-maker may, on application or on the decision-maker's own initiative, renew or refuse to renew a permit.	17 18
(2)	A relevant decision-maker may refuse to renew a permit:	19
(a)	if an application for renewal of the permit is not duly made, or	20
(b)	if the relevant decision-maker is of the opinion that the applicant is not a suitable person to engage in the conduct to be authorised by the permit, or	21 22
(c)	in the case of an emergency, or	23
(d)	on any other grounds prescribed by the regulations, or	24
(e)	for any other reason that the relevant decision-maker considers to be a good reason for refusing the application.	25 26
(3)	A decision about the suitability of the person to engage in the conduct to be authorised by the permit may be made having regard to any of the following:	27 28
(a)	the fact that the applicant has been found guilty of an offence under this Act or the regulations, or an offence under any other Act or law,	29 30
(b)	a biosecurity audit in relation to the permit holder,	31
(c)	any other matter prescribed by the regulations,	32
(d)	any other circumstances that the relevant decision-maker considers relevant.	33
(4)	The relevant decision-maker is to give the applicant written or oral notice of a decision to renew or refuse to renew a permit.	34 35
(5)	If notice of the decision is given orally, the relevant decision-maker is to give the applicant written confirmation of the decision as soon as practicable after it is made.	36 37
(6)	A relevant decision-maker who fails to give an applicant for renewal of a permit notice of a decision to renew or refuse to renew the permit within the period prescribed by the regulations is taken to have refused the renewal.	38 39 40

Division 5	Conditions of permit	1
338	Conditions of permit	2
(1)	A permit is subject to the following conditions:	3
(a)	any conditions prescribed by the regulations,	4
(b)	any conditions imposed by the relevant decision-maker.	5
(2)	A relevant decision-maker may impose conditions on a permit:	6
(a)	at the time of the grant or renewal of the permit, or	7
(b)	at any other time by variation to the permit.	8
(3)	A provision of this Part that authorises a type of condition to be imposed on a permit does not prevent other types of conditions being imposed or limit the matters that can be provided for by conditions, except where otherwise expressly provided for by this Part.	9 10 11 12
(4)	In this Division:	13
	<i>permit holder</i> includes a former permit holder.	14
339	Conditions for insurance cover	15
	The conditions of a permit may require the permit holder to take out and maintain a policy of insurance for the payment of costs for any remedial action required because of, or any claims for compensation or damages associated with, the biosecurity impact of conduct authorised by the permit.	16 17 18 19
340	Conditions for biosecurity audits	20
	The conditions of a permit may require the permit holder to co-operate with, or arrange for, mandatory biosecurity audits.	21 22
341	Conditions requiring financial assurances	23
(1)	The conditions of a permit may require the permit holder to provide a financial assurance. The relevant decision-maker may require any such financial assurance to be provided before the relevant decision-maker grants, renews, varies, suspends or cancels a permit.	24 25 26 27
(2)	The purpose of a condition requiring provision of a financial assurance is to secure or guarantee funding for or towards the doing of any thing required to remedy a contravention of another condition of a permit (the <i>secured condition</i>).	28 29 30
(3)	A financial assurance is not to operate as a mere penalty for a contravention of this Act, the regulations or the conditions of a permit.	31 32
(4)	A financial assurance may be in one or more of the following forms:	33
(a)	a bank guarantee,	34
(b)	a bond,	35
(c)	a form specified by the regulations,	36
(d)	another form of security that has been approved by the Secretary and is specified in the condition.	37 38
(5)	The regulations and, subject to the regulations, the conditions of a permit, may make provision for or with respect to financial assurances, including the following:	39 40
(a)	the calculation of the amount of financial assurances that can be required,	41
(b)	the circumstances in which financial assurances may be claimed or realised, and the procedure for claiming or realising financial assurances,	42 43

(c)	the works that can be carried out to remedy a contravention of a secured condition, including provisions that:	1
(i)	specify the circumstances in which those works can be carried out by or on behalf of the Secretary, and	2
(ii)	authorise the Secretary, or a person acting on behalf of the Secretary, to enter land to carry out those works,	3
(d)	the provision of information in respect of the works,	4
(e)	the audit of the works,	5
(f)	the administration of financial assurances.	6
(6)	The Land and Environment Court has jurisdiction to determine disputes about calling on or using a financial assurance.	7
(7)	A financial assurance may be called on and used, despite and without affecting:	8
(a)	any liability of the permit holder for any penalty for an offence for a contravention to which the assurance relates, and	9
(b)	any other action that might be taken or is required to be taken in relation to any contravention or other circumstances to which the assurance relates.	10
342	Conditions to take effect later	11
(1)	The conditions of a permit may provide that an authorisation conferred by the permit does not take effect until the end of a specified period or on the happening of a particular event or on the occurrence of a specified state of affairs.	12
(2)	Without limiting the generality of the above, the conditions may provide that an authorisation or variation will not take effect until a financial assurance is provided in accordance with the condition.	13
Division 6	Suspension or cancellation of permit	14
343	General grounds for suspension or cancellation of permit	15
(1)	Each of the following constitutes grounds for suspending or cancelling a permit:	16
(a)	a relevant decision-maker is of the opinion that the permit holder has contravened a requirement imposed by or under this Act,	17
(b)	a relevant decision-maker is of the opinion that the permit holder is not a suitable person to engage in the conduct authorised by the permit,	18
(c)	a relevant decision-maker receives information about the permit holder and the relevant decision-maker is of the opinion that, had the information been received at the time when the application for grant or renewal of the permit was made, the relevant decision-maker would have refused the application,	19
(d)	any other grounds prescribed by the regulations.	20
(2)	A decision about the suitability of the person for a permit may be made having regard to any of the following:	21
(a)	the fact that the permit holder has been found guilty of an offence under this Act or the regulations, or an offence under any other Act or law,	22
(b)	a biosecurity audit in relation to the permit holder,	23
(c)	any matter prescribed by the regulations,	24
(d)	any other circumstances that the relevant decision-maker considers relevant.	25
(3)	In this Division:	26
	<i>permit holder</i> includes a former permit holder.	27

344	Additional grounds for suspension or cancellation of permit—emergency	1
(1)	A relevant decision-maker may also suspend or cancel a permit in the case of an emergency (in which case, the emergency is the grounds for the suspension or cancellation).	2 3 4
(2)	This section does not apply to an emergency permit that expressly authorises conduct in relation to the emergency concerned.	5 6
	Note. In any case, a permit does not authorise conduct that contravenes an emergency order, unless it is an emergency permit.	7 8
345	Suspension of permit	9
(1)	A relevant decision-maker may, by notice to a permit holder, suspend a permit if the relevant decision-maker is satisfied that there are grounds for the suspension.	10 11
(2)	Notice of the suspension must specify:	12
(a)	the date or time from which suspension takes effect, and	13
(b)	the period of suspension, and	14
(c)	the grounds for the suspension.	15
(3)	Notice of a suspension is to be given in writing but, in the case of an emergency, may be given orally by the relevant decision-maker.	16 17
(4)	If notice is given orally, the relevant decision-maker is to give the permit holder written confirmation of the suspension as soon as practicable.	18 19
346	Permit holder to be given opportunity to make submissions about suspension	20
(1)	Before suspending a permit, a relevant decision-maker must:	21
(a)	give notice in writing to the permit holder of the relevant decision-maker's intention to suspend the permit and the proposed grounds for doing so, and	22 23
(b)	invite the permit holder to make a submission to the relevant decision-maker about the proposed suspension, and	24 25
(c)	take into account any submission made to the relevant decision-maker by the permit holder before the deadline for the making of a submission.	26 27
(2)	The relevant decision-maker is to specify a deadline for the making of a submission to the relevant decision-maker about the proposed suspension that is at least 30 days after the notice is given to the permit holder.	28 29 30
(3)	The relevant decision-maker is not required to give notice under this section of a proposed suspension if:	31 32
(a)	the permit is a group permit, or	33
(b)	the relevant decision-maker is of the opinion that the suspension is required urgently because of the biosecurity impact of the conduct authorised by the permit, or	34 35 36
(c)	the proposed suspension is in the case of an emergency.	37
(4)	However, if the relevant decision-maker suspends a permit (other than a group permit) without giving prior notice to the permit holder, the relevant decision-maker must:	38 39 40
(a)	give the permit holder notice in writing of the grounds for the suspension, and	41
(b)	invite the permit holder to make a submission to the relevant decision-maker about the suspension by a specified deadline (which is at least 30 days after the notice is given to the permit holder).	42 43 44

(5)	If the permit holder makes a submission to the relevant decision-maker about the suspension before the specified deadline, the relevant decision-maker must:	1
		2
(a)	decide whether the suspension should be revoked or continued, having regard to that submission, and	3
		4
(b)	give notice in writing of that decision to the permit holder.	5
347	Cancellation of permit	6
(1)	A relevant decision-maker may, by notice to a permit holder, cancel the permit of a permit holder if:	7
		8
(a)	the relevant decision-maker is satisfied that there are grounds for the cancellation of the permit, or	9
		10
(b)	the permit holder applies for cancellation of the permit.	11
(2)	Notice of the cancellation must specify:	12
(a)	the date or time from which cancellation takes effect, and	13
		14
(b)	the grounds for the cancellation.	14
(3)	Notice of a cancellation is to be given in writing but, in the case of an emergency, may be given orally by the relevant decision-maker.	15
		16
(4)	If notice is given orally, the relevant decision-maker is to give the permit holder written confirmation of the cancellation as soon as practicable.	17
		18
348	Permit holder to be given opportunity to make submissions about cancellation	19
(1)	Before cancelling a permit, a relevant decision-maker must:	20
(a)	give notice in writing to the permit holder of the relevant decision-maker's intention to cancel the permit and the proposed grounds for doing so, and	21
		22
(b)	invite the permit holder to make a submission to the relevant decision-maker about the proposed cancellation, and	23
		24
(c)	take into account any submission made to the relevant decision-maker by the permit holder before the deadline for the making of a submission.	25
		26
(2)	The relevant decision-maker is to specify a deadline for the making of a submission to the relevant decision-maker about the proposed cancellation that is at least 30 days after the notice is given to the permit holder.	27
		28
		29
(3)	The relevant decision-maker is not required to give notice under this section of a proposed cancellation if:	30
		31
(a)	the permit is a group permit, or	32
(b)	the permit is suspended and either:	33
(i)	the permit holder was given an opportunity to make a submission about the suspension before the suspension took effect, or	34
		35
(ii)	the permit holder was given an opportunity to make a submission about the suspension after the suspension took effect, and the period specified by the relevant decision-maker for the making of that submission has ended, or	36
		37
		38
		39
(c)	the permit holder has applied for cancellation.	40
349	Effect of suspension or cancellation on conditions	41
(1)	A permit may be suspended or cancelled unconditionally or subject to such conditions as the relevant decision-maker imposes.	42
		43

(2)	Those conditions may include (but are not limited to) any conditions to which the permit was subject immediately before it was suspended or cancelled.	1 2
(3)	A relevant decision-maker may, by notice in writing given to the former permit holder, attach new conditions to, or vary or revoke any existing conditions of, the suspension or cancellation of the permit.	3 4 5
Division 7	Miscellaneous	6
350	Surrender of permit	7
(1)	A permit holder may apply to a relevant decision-maker for a cancellation of a permit.	8 9
(2)	An application must:	10
(a)	be in an approved form, and	11
(b)	be accompanied by the fee for voluntary cancellation of a permit (if any) prescribed by the regulations, and	12 13
(c)	include or be accompanied by any information or evidence required by the relevant decision-maker to assess the application.	14 15
(3)	An application for cancellation of a permit is not duly made unless it complies with subsection (2).	16 17
351	Appeal to Land and Environment Court	18
(1)	A person aggrieved by any of the following decisions may appeal to the Land and Environment Court against the decision:	19 20
(a)	a decision of a relevant decision-maker to refuse a permit,	21
(b)	a decision of a relevant decision-maker to refuse to renew a permit,	22
(c)	a decision of a relevant decision-maker to suspend or cancel a permit,	23
(d)	a decision of a relevant decision-maker to refuse to revoke a suspension of a permit following the making of a submission by the former permit holder under this Part, being a suspension of which the former permit holder was not given prior notice,	24 25 26 27
(e)	a decision of a relevant decision-maker to impose any condition on a permit, or on the suspension or cancellation of a permit,	28 29
(f)	a decision of a relevant decision-maker to vary a permit.	30
(2)	An appeal is to be made in accordance with rules of court, but may not be made more than 28 days after the date written notice of the decision is served on the person.	31 32
(3)	Subject to any order made by the Land and Environment Court, an appeal does not operate to stay the decision to which the appeal relates.	33 34
(4)	No appeal lies against any of the following decisions:	35
(a)	a decision of a relevant decision-maker to refuse to grant or renew an emergency permit,	36 37
(b)	a decision of a relevant decision-maker to refuse to renew a permit, or to suspend or cancel a permit, in the case of an emergency,	38 39
(c)	any decision about a group permit.	40

Part 22 Administration	1
Division 1 Authorised officers	2
352 Appointment of authorised officers	3
(1) The Secretary may, by instrument in writing, appoint any person as an authorised officer for the purposes of this Act.	4 5
(2) An appointment may apply to a specified person or to persons of a specified class.	6
(3) An appointment may be unconditional, or subject to conditions or limitations.	7
(4) An appointment has effect for the period specified in the instrument of appointment or, if no period is specified, until revoked by the Secretary.	8 9
(5) The Secretary may, by instrument in writing, revoke or amend an appointment under this section at any time.	10 11
(6) If an appointment of an authorised officer is made by reference to a particular office, the person ceases to be an authorised officer if he or she ceases to hold that office.	12 13
353 Powers subject to instrument of appointment	14
(1) An authorised officer may exercise the functions of an authorised officer under this Act, subject to any conditions or limitations specified in his or her instrument of appointment.	15 16 17
(2) Nothing in this Act authorises or requires an authorised officer to act in contravention of the conditions or limitations specified in his or her instrument of appointment as an authorised officer.	18 19 20
354 Police officers taken to be authorised officers	21
(1) A police officer is taken to be an authorised officer under this Act and may exercise all of the functions of an authorised officer under this Act.	22 23
(2) Nothing in this Act limits the powers of a police officer under the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> or any other law.	24 25
355 Identification	26
(1) Every authorised officer, other than a police officer, is to be provided with evidence of his or her authority as an authorised officer.	27 28
(2) In the course of exercising the functions of an authorised officer under this Act, the officer must, if requested to do so by any person affected by the exercise of any such function, produce to the person the officer's evidence of authority, unless the person is a police officer.	29 30 31 32
(3) The Secretary may direct any person who ceases to be an authorised officer to return to the Secretary the evidence of his or her authority as an authorised officer.	33 34
(4) A person who fails to comply with a direction under subsection (3) is guilty of an offence.	35 36
(5) An offence against subsection (4) is a category 2 offence.	37
356 Use of assistants	38
(1) An authorised officer exercising a power conferred by or under this Act may exercise the power with the assistance of any other persons the authorised officer considers necessary.	39 40 41

(2)	The person may accompany an authorised officer and take all reasonable steps to assist the authorised officer in the exercise of the authorised officer's functions under this Act.	1 2 3
357	Use of dogs	4
(1)	An authorised officer may use a dog for the purpose of assisting the authorised officer to detect the presence of, or manage, biosecurity matter.	5 6
(2)	An authorised officer who is entitled to enter premises under this Act is entitled to enter those premises in the company of a dog that is used or proposed to be used for that purpose.	7 8 9
(3)	An authorised officer who exercises a function in the company of, or using, a dog is required to keep the dog under control and to take all reasonable precautions to prevent the dog from touching any person who is affected by the exercise of the function.	10 11 12 13
(4)	Nothing in this section authorises the use of a dog for general drug detection (within the meaning of Division 2 of Part 11 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i>).	14 15 16
358	Obstructing authorised officers	17
(1)	A person who resists or obstructs an authorised officer in the exercise of the officer's functions under this Act is guilty of an offence.	18 19
(2)	An offence against this section is a category 2 offence.	20
359	Assaulting authorised officers	21
(1)	A person who assaults, abuses or threatens an authorised officer, or who encourages another person to do so, is guilty of an offence.	22 23
(2)	An offence against this section is a category 1 offence.	24
360	Impersonating authorised officers	25
(1)	A person who impersonates an authorised officer is guilty of an offence.	26
(2)	An offence against this section is a category 2 offence.	27
Division 2	Local control authorities—weeds	28
361	Local control authority—meaning	29
(1)	The council of a local government area is the local control authority for land within that local government area unless the weed control functions for that area have been conferred on a county council under any other Act. If the weed control functions for an area have been conferred on a county council, the county council is the local control authority for that area.	30 31 32 33 34
(2)	The Western Lands Commissioner is the local control authority for land within the Western Division that is not within a local government area.	35 36
(3)	The Lord Howe Island Board is the local control authority for land within Lord Howe Island.	37 38
362	Functions of local control authority	39
(1)	A local control authority has the following functions, in relation to the land for which it is the local control authority:	40 41

(a)	the prevention, elimination, minimisation and management of the biosecurity risk posed or likely to be posed by weeds,	1 2
(b)	to develop, implement, co-ordinate and review weed control programs,	3
(c)	to inspect land in connection with its weed control functions,	4
(d)	to report, at the request of the Secretary, on the exercise of the local control authority's functions under this Act.	5 6
(2)	Nothing in this section limits the functions of the Secretary under this Act in relation to the control of weeds in any area.	7 8
363	Local authorities to appoint authorised officers to control weeds	9
(1)	A local control authority has the same power as the Secretary to appoint authorised officers in relation to land for which it is the local control authority.	10 11
(2)	A person appointed by a local control authority as an authorised officer may exercise the functions of an authorised officer:	12 13
(a)	in relation to weeds only, and	14
(b)	subject to this Division, only in relation to land for which that local control authority is the local control authority.	15 16
(3)	Division 1 applies in relation to the appointment of an authorised officer by a local control authority in the same way as it applies in relation to the appointment of an authorised officer by the Secretary.	17 18 19
(4)	A local control authority has the same functions as the Secretary with respect to:	20
(a)	any biosecurity direction given by an authorised officer appointed by the local control authority, or	21 22
(b)	any biosecurity undertaking executed by an authorised officer appointed by the local control authority.	23 24
(5)	A reference in this Act to an authorised officer acting on behalf of the Secretary includes a reference to an authorised officer acting on behalf of a local control authority.	25 26 27
(6)	The regulations may make further provision for:	28
(a)	the exercise by a local control authority of any functions of the Secretary under this Act, in relation to weeds, and	29 30
(b)	the exercise by an authorised officer appointed by a local control authority of functions under this Act.	31 32
(7)	Nothing in this section limits the functions of an authorised officer appointed by the Secretary in relation to the control of weeds in any area.	33 34
364	Recovery of fees	35
(1)	A local control authority may exercise any function of the Secretary under this Act in relation to the recovery of fees charged, or costs or expenses incurred, in connection with the exercise of functions by an authorised officer who is appointed by the local control authority.	36 37 38 39
(2)	For that purpose:	40
(a)	a reference in this Act to the Secretary includes a reference to a local control authority, and	41 42
(b)	a reference in this Act to any costs or expenses incurred by or on behalf of the Secretary includes a reference to costs or expenses incurred by or on behalf of the local control authority.	43 44 45

365	Arrangements for joint exercise of functions	1
(1)	A local control authority may enter into an arrangement with one or more local control authorities that authorises an authorised officer appointed by any of those local control authorities to exercise functions in relation to land for which any of those local control authorities is a local control authority.	2 3 4 5
(2)	An authorised officer appointed by a local control authority may, in accordance with any such arrangement, exercise functions under this Act in relation to land for which another local control authority is the local control authority.	6 7 8
366	Delegation by local control authority	9
(1)	A local control authority may delegate to any officer or employee of the local control authority any function conferred on the local control authority by this Act or the regulations, other than this power of delegation.	10 11 12
(2)	A delegate may subdelegate any function delegated to the delegate by the local control authority if authorised to do so by the local control authority by instrument in writing.	13 14 15
(3)	A delegate cannot subdelegate a function to a person if the local control authority does not have power to delegate that function to the person.	16 17
(4)	If a local control authority delegates functions subject to conditions or limitations, any subdelegation by the delegate is taken to be subject to the same conditions and limitations, and any further conditions or limitations imposed by the delegate.	18 19 20
Division 3	Other officers	21
367	Chief Plant Protection Officer	22
(1)	The Secretary may, by instrument in writing, appoint an officer employed in the Department to be Chief Plant Protection Officer, and one or more other officers so employed to be Deputy Chief Plant Protection Officers, for the purposes of this Act.	23 24 25
(2)	A Deputy Chief Plant Protection Officer may exercise the functions of Chief Plant Protection Officer on such terms and in such circumstances as may be specified in the instrument of appointment of the Deputy Chief Plant Protection Officer.	26 27 28
368	Chief Veterinary Officer	29
(1)	The Secretary may, by instrument in writing, appoint an officer employed in the Department to be Chief Veterinary Officer, and one or more other officers so employed to be Deputy Chief Veterinary Officers, for the purposes of this Act.	30 31 32
(2)	A Deputy Chief Veterinary Officer may exercise the functions of Chief Veterinary Officer on such terms and in such circumstances as may be specified in the instrument of appointment of the Deputy Chief Veterinary Officer.	33 34 35
Division 4	General	36
369	Delegation by Secretary	37
(1)	The Secretary may delegate to any person any function conferred on the Secretary by this Act or the regulations, other than this power of delegation.	38 39
(2)	The following functions may be delegated only to an officer or employee of a government agency:	40
(a)	a function of making emergency orders under this Act,	41 42
(b)	a function of making control orders under this Act,	43

(c)	a function of granting or renewing emergency permits under this Act,	1
(d)	a function of granting or renewing prohibited matter permits under this Act.	2
(3)	A delegate may subdelegate any function delegated to the delegate by the Secretary if authorised to do so by the Secretary, by instrument in writing.	3 4
(4)	A delegate cannot subdelegate a function to a person if the Secretary does not have power to delegate that function to the person.	5 6
(5)	If the Secretary delegates functions subject to conditions or limitations, any subdelegation by the delegate is taken to be subject to the same conditions and limitations, and any further conditions or limitations imposed by the delegate.	7 8 9
370	Extraterritorial exercise of functions	10
(1)	The Minister may enter into an arrangement with a Minister of another State or Territory providing for either or both of the following:	11 12
(a)	the exercise, in another State or Territory, by authorised officers or by officers of that State or Territory of functions under this Act or the regulations,	13 14
(b)	the exercise, in this State, by authorised officers or by officers of that State or Territory of functions under a corresponding law.	15 16
(2)	The Secretary may enter into an arrangement with the head of an interstate biosecurity agency providing for either or both of the following:	17 18
(a)	the exercise, in another State or Territory, by authorised officers or by officers of that State or Territory of functions under this Act or the regulations,	19 20
(b)	the exercise, in this State, by authorised officers or by officers of that State or Territory of functions under a corresponding law.	21 22
(3)	An authorised officer or an officer of another State or Territory may, in accordance with any such arrangement, exercise functions under this Act in another State or a Territory, but only to the extent that the matters concerned relate to a biosecurity impact or potential biosecurity impact on this State.	23 24 25 26
(4)	An authorised officer or an officer of another State or Territory may, in accordance with any such arrangement, exercise functions in this State under a corresponding law of another State or a Territory, but only to the extent that the matters concerned relate to a biosecurity impact or potential biosecurity impact on that State or Territory.	27 28 29 30 31
(5)	In this section:	32
	<i>interstate biosecurity agency</i> means a government department or agency of another State or a Territory responsible for the administration of a corresponding law.	33 34
371	Access to information by authorised officers	35
	Roads and Maritime Services is authorised and required to provide an authorised officer, on request, with the following information, if available, if an authorised officer requires the information in connection with an investigation of a suspected contravention of the requirements imposed by or under this Act:	36 37 38 39
(a)	the name and address of the person in whose name a vehicle is registered,	40
(b)	details of any licence for a vehicle held by a person,	41
(c)	details of any vehicle registered in the name of a person.	42

372 Waiver and refund of fees and charges

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The Secretary may waive, reduce or refund payment of all or part of any fee or charge payable under this Act or the regulations if the Secretary considers it is appropriate to do so.

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Part 23 Miscellaneous

373 Protection from liability

- (1) A matter or thing done or omitted to be done by a protected person does not subject the protected person, the Crown or any government agency to any action, liability, claim or demand if the matter or thing was done or omitted to be done in good faith for the purpose of executing any provision of this Act, the regulations or any instrument made under this Act.
- (2) This section extends to any matter or thing done or omitted to be done by a person who is requested by an authorised officer to provide assistance to that authorised officer in the exercise or purported exercise of any function conferred on the authorised officer, as if the thing were done or omitted to be done by the authorised officer.
- (3) This section extends to any matter or thing done or omitted to be done by an authorised officer who is approved by the Secretary to exercise the functions of a biosecurity certifier or biosecurity auditor in the exercise or purported exercise of any of those functions.
- (4) In this section:
Crown means the Crown within the meaning of the *Crown Proceedings Act 1988* or an officer, employee or agency of the Crown.
protected person means:
- the Minister, or
 - the Secretary, or
 - an authorised officer, or
 - an officer, employee or agent of the Crown or a government agency, or
 - the Western Lands Commissioner, or
 - any other person of a class prescribed by the regulations.

374 Restraint of contraventions of requirement imposed by or under Act

- (1) The Secretary may bring proceedings in the Land and Environment Court for an order to restrain a contravention (or a threatened or apprehended contravention) of any requirement imposed by or under this Act.
- (2) If the Court is satisfied that a contravention, or a threatened or apprehended contravention, unless restrained by order of the Court, will occur or is likely to occur, it may make such orders as it thinks fit to restrain the contravention or other conduct of the person by whom the contravention is committed or by whom the threatened or apprehended contravention is likely to be committed.
- (3) Without limiting the powers of the Court under this section, an order under this section may suspend any biosecurity registration or permit.

375 Planning and other requirements in relation to authorised actions

- (1) Authorised actions may be taken on land despite any requirement for an approval, consent or other authorisation for the work made by the *Environmental Planning and Assessment Act 1979*, the *Native Vegetation Act 2003*, the *Threatened Species Conservation Act 1995*, the *National Parks and Wildlife Act 1974* or any other Act or instrument made under an Act.
- (2) An environmental planning instrument under the *Environmental Planning and Assessment Act 1979* cannot prohibit, require development consent for or otherwise restrict the taking of any authorised action.

(3)	Part 5 of the <i>Environmental Planning and Assessment Act 1979</i> does not apply to or in respect of any authorised action that is:	1
		2
(a)	authorised or required by or under an emergency order, or	3
(b)	required by a biosecurity direction that is given in the case of an emergency, or	4
(c)	taken by an authorised officer under Division 4 of Part 8 in the case of an emergency.	5
		6
(4)	In this section:	7
	authorised action means any action authorised, required or taken under:	8
(a)	an emergency order, or	9
(b)	a control order, or	10
(c)	a biosecurity zone regulation, or	11
(d)	Division 4 (Investigation and risk management powers) of Part 8, or	12
(e)	a biosecurity direction.	13
376	Cruelty to animals not authorised	14
	This Act or an instrument made under this Act does not affect the operation of, and does not authorise the contravention of, the <i>Prevention of Cruelty to Animals Act 1979</i> .	15
		16
		17
377	Application of Surveillance Devices Act 2007	18
(1)	The <i>Surveillance Devices Act 2007</i> does not:	19
(a)	prevent the Secretary or an authorised officer from imposing a requirement under this Act that an owner or occupier of premises install or use a device on those premises for the purpose of detecting or monitoring the presence of any biosecurity matter or other thing on those premises, or	20
		21
		22
		23
(b)	prevent the owner or occupier from installing or using the device in accordance with that requirement.	24
		25
(2)	The <i>Surveillance Devices Act 2007</i> does not prevent an authorised officer from exercising a function under this Act of installing or using a device on any premises for the purpose of detecting or monitoring the presence of any biosecurity matter or other thing.	26
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		29
(3)	The <i>Surveillance Devices Act 2007</i> does not prevent the Secretary or an authorised officer from possessing a record of an activity obtained by use of a device installed or used as referred to in this section.	30
		31
		32
(4)	However, this section does not authorise:	33
(a)	the installation or use of a device for the purpose of detecting or monitoring the presence of a person, or	34
		35
(b)	the installation or use of a device for the purpose of overhearing, recording, monitoring or listening to a private conversation, or	36
		37
(c)	the possession, publication or communication of a record of a private conversation obtained by the use of a device.	38
		39
(5)	A record of any conversation obtained by the use of a device under this Act in circumstances that, but for this section, would contravene the <i>Surveillance Devices Act 2007</i> , is inadmissible as evidence in any criminal proceedings.	40
		41
		42
(6)	A record of any image of a person that is obtained by the use of a device under this Act in circumstances that, but for this section, would contravene the <i>Surveillance</i>	43
		44

	<i>Devices Act 2007</i> , is inadmissible as evidence in any criminal proceedings except with the consent of the person.	1 2
(7)	Subsection (5) or (6) does not prevent the admission of any part of a record obtained by use of a device that is not a record of a conversation or image of a person.	3 4
(8)	In this section, <i>private conversation</i> and <i>record</i> have the same meanings as in the <i>Surveillance Devices Act 2007</i> .	5 6
378	Continuing effect of requirements	7
(1)	A requirement imposed by or under this Act that specifies a time by which, or a period within which, the requirement must be complied with continues to have effect until the requirement is complied with even though the time has passed or the period has expired.	8 9 10 11
(2)	A requirement that does not specify a time by which, or period within which, the requirement must be complied with continues to have effect until the requirement is complied with.	12 13 14
(3)	This section does not apply to the extent that any requirement imposed by or under this Act is revoked.	15 16
(4)	Nothing in this section affects the powers of the Secretary with respect to the enforcement of any requirement imposed by or under this Act.	17 18
379	Service of notices and other documents	19
(1)	A notice or other document that is authorised or required by this Act or the regulations to be served on or given to any person may be served or given by:	20 21
(a)	in the case of a natural person:	22
(i)	delivering it to the person personally, or	23
(ii)	sending it by post to the address specified by the person for the giving or service of documents or, if no such address is specified, the residential or business address of the person last known to the person giving or serving the document, or	24 25 26 27
(iii)	sending it by electronic transmission to an address or location nominated by the person (in correspondence or otherwise) as an address or location to which correspondence can be sent, or	28 29 30
(b)	in the case of a body corporate:	31
(i)	leaving it with a person apparently of or above the age of 16 years at, or by sending it by post to, the head office, a registered office or a principal office of the body corporate or to an address specified by the body corporate for the giving or service of documents, or	32 33 34 35
(ii)	sending it by electronic transmission to an address or location nominated by the body corporate (in correspondence or otherwise) as an address or location to which correspondence can be sent.	36 37 38
(2)	Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on a person in any other manner.	39 40
380	Description of land in notices and other instruments	41
	Land is sufficiently described in a notice or other instrument given or made under this Act if the description of the land allows no reasonable doubt as to the land to which the notice or instrument relates.	42 43 44

381	Reasonable suspicion—carriers	1
(1)	For the purposes of this Act, an animal, plant, place or thing may reasonably be suspected of being a carrier of biosecurity matter if there is reason to think that biosecurity matter is present in or on the animal, plant, place or thing.	2 3 4
(2)	It is not necessary, in order to form a reasonable suspicion that an animal or plant is a carrier of biosecurity matter, for the animal or plant to be exhibiting signs of infection or contamination or other signs that it is a carrier.	5 6 7
(3)	An animal, plant or thing may, for the purposes of this Act, be reasonably suspected of being a carrier of biosecurity matter if there is reason to think it is or has been in or with a flock, group or herd, or is travelling or has travelled on any land or place, or in a vehicle, in which there is or was an animal, plant or thing that was a carrier of the biosecurity matter.	8 9 10 11 12
(4)	An animal or plant may, for the purposes of this Act, be reasonably suspected of being a carrier of biosecurity matter if there is reason to think that there is present in or on the place where the animal or plant is kept a vehicle or thing that has been in or on another place when the biosecurity matter or a carrier of the biosecurity matter was present in or on that other place.	13 14 15 16 17
(5)	A place or thing may, for the purposes of this Act, be reasonably suspected of being a carrier of biosecurity matter if there is reason to think that there is present in or on the place or thing a vehicle or thing that has been in or on another place when the biosecurity matter or a carrier of the biosecurity matter was present in or on that other place.	18 19 20 21 22
(6)	This section does not prejudice any other evidence or consideration by which the Secretary, an authorised officer or any other person might reasonably suspect that an animal, plant, place or thing is a carrier of biosecurity matter.	23 24 25
382	Reasonable suspicion of infection	26
(1)	For the purposes of this Act, an animal, plant, place or thing may reasonably be suspected of being infected with a disease if there is reason to think that a disease agent is present in or on the animal, plant, place or thing.	27 28 29
(2)	It is not necessary, in order to form a reasonable suspicion that an animal, plant, place or thing is infected with a disease, for the animal, plant, place or thing to be exhibiting signs of the disease.	30 31 32
(3)	An animal, plant or thing may, for the purposes of this Act, be reasonably suspected of being infected with a disease if it is or has been in or with a flock, group or herd, or is travelling or has travelled on any land or place, or in a vehicle, in which there was or is an animal, plant or thing infected with a disease.	33 34 35 36
(4)	This section does not prejudice any other evidence or consideration by which the Secretary, an authorised officer or other person might reasonably suspect that an animal, plant, place or thing is infected with a disease.	37 38 39
383	Reasonable suspicion of infestation	40
(1)	For the purposes of this Act, an animal, plant, place or thing may reasonably be suspected of being infested with a pest if there is reason to think:	41 42
(a)	that the pest is present in or on the animal, plant, place or thing, or	43
(b)	that there is present in or on the place or thing a vehicle or thing that has been in or on another place when the pest was present in or on that other place.	44 45

(2)	This section does not prejudice any other evidence or consideration by which the Secretary, an authorised officer or other person might reasonably suspect that an animal, plant, place or thing is infested with a pest.	1 2 3
384	Exemptions	4
(1)	The Secretary may, by order published in the Gazette, exempt any specified person or class of persons, specified occupier or class of occupiers or any specified biosecurity matter, carrier, premises or thing from the operation of all or any specified provisions of this Act.	5 6 7 8
(2)	An exemption may be unconditional or subject to conditions.	9
385	Application of Personal Property Securities Act 2009 (Cth)	10
	Each of the following is declared not to be personal property for the purposes of the <i>Personal Property Securities Act 2009</i> of the Commonwealth:	11 12
(a)	biosecurity registration,	13
(b)	a permit,	14
(c)	accreditation as a biosecurity certifier,	15
(d)	appointment as a biosecurity auditor,	16
(e)	approval to exercise the functions of an accreditation authority.	17
	Note. The <i>Personal Property Securities Act 2009</i> of the Commonwealth does not apply in relation to a right, licence or authority granted by or under a law of a State that is declared by the law not to be personal property for the purposes of that Act.	18 19 20
386	Regulations	21
(1)	The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	22 23 24 25
(2)	Without limiting the generality of the above, the regulations may make provision for or with respect to any matter described in Schedule 5.	26 27
(3)	A regulation may apply, adopt or incorporate any publication as in force at a particular time or as in force from time to time.	28 29
(4)	A regulation may create an offence punishable by a penalty not exceeding \$11,000.	30
387	Review of Act	31
(1)	The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.	32 33 34
(2)	The review is to be undertaken as soon as possible after the period of 5 years from the day appointed by proclamation for the commencement of this Act or, if more than one day is appointed, the first of those days.	35 36 37
(3)	A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.	38 39

Schedule 1	Special provisions relating to weeds	1
1	Application of Schedule	2
	This Schedule applies for the purposes of, and without limiting, Part 3.	3
2	Definitions	4
	In this Schedule:	5
	channel land means land in an irrigation area designed and used or proposed to be used by the Water Administration Ministerial Corporation or an irrigation corporation (within the meaning of Part 1 of Chapter 4 of the <i>Water Management Act 2000</i>) for the purpose of water supply or drainage channels.	6 7 8 9
	irrigation area means:	10
	(a) land within an area within the meaning of the <i>Hay Irrigation Act 1902</i> or the <i>Wentworth Irrigation Act 1890</i> , or	11 12
	(b) land within the area of operations of an irrigation corporation within the meaning of Part 1 of Chapter 4 of the <i>Water Management Act 2000</i> .	13 14
	public authority means:	15
	(a) a public or local authority constituted by or under an Act (other than a local control authority), or	16 17
	(b) a Public Service agency (within the meaning of the <i>Government Sector Employment Act 2013</i>), or	18 19
	(c) a statutory body representing the Crown, or	20
	(d) the Forestry Corporation, or	21
	(e) the trustees of land reserved or dedicated for any public purpose.	22
	public channel land means channel land that is owned by the Crown or a public authority (other than land occupied by a person other than a public authority).	23 24
	public reserve has the same meaning as it has in the <i>Local Government Act 1993</i> .	25
	road does not include a highway, freeway, tollway or State work within the meaning of the <i>Roads Act 1993</i> .	26 27
3	Duty to control weeds on roads	28
(1)	A biosecurity duty imposed on an occupier of land under Part 3 to prevent, eliminate or minimise any biosecurity risk posed or likely to be posed by weeds on that land extends to weeds on:	29 30 31
	(a) any part of a road that intersects the land, not being part of the road that is fenced on both sides, and	32 33
	(b) the half of the width of any part of a road that forms part of the boundary of the land, not being a part of the road that is fenced on both sides, and	34 35
	(c) any part of a road that forms part of the boundary of the land, being a part of the road that is not fenced on the side forming part of the boundary but is fenced on the other side.	36 37 38
(2)	An occupier of land is required to comply with any mandatory measures relating to weeds on land referred to in subclause (1) as if the occupier were dealing with those weeds.	39 40 41
(3)	An occupier may enter a road at all reasonable times for the purpose of discharging the occupier's biosecurity duty in relation to weeds or complying with a mandatory measure or biosecurity direction given in connection with weeds.	42 43 44
(4)	This clause does not apply to a road referred to in clause 5.	45

4	Duty to control aquatic weeds	1
(1)	If the land of an occupier is situated on opposite sides of a watercourse, river or inland water (tidal or non-tidal), a biosecurity duty imposed on an occupier of the land under Part 3 to prevent, eliminate or minimise any biosecurity risk posed or likely to be posed by weeds on that land extends to weeds located on the land between those sides.	2 3 4 5 6
(2)	If a watercourse, river or inland water (tidal or non-tidal) is situated between land occupied by different occupiers, a biosecurity duty imposed on each occupier under Part 3 to prevent, eliminate or minimise any biosecurity risk posed or likely to be posed by weeds extends to weeds located on the land between the boundary of the land and any fence erected to define the boundary of the land or, if there is no such fence, to the middle line of the watercourse, river or inland water.	7 8 9 10 11 12
(3)	An occupier of land is required to comply with any mandatory measures relating to weeds on land referred to in subclause (1) or (2) as if the occupier were dealing with those weeds.	13 14 15
(4)	An occupier may enter a watercourse, river or inland water for the purpose of discharging the occupier's biosecurity duty in relation to weeds or complying with a mandatory measure or biosecurity direction given in connection with weeds.	16 17 18
(5)	A local control authority may, by order, exempt the whole or part of a watercourse, river or inland water in the area for which it is local control authority from the operation of subclause (1) or (2), or both, if, in its opinion, the depth or width of the watercourse, river or inland water is such that, in the circumstances, it would be unreasonable to apply the provisions concerned.	19 20 21 22 23
(6)	A local control authority is to be responsible for weeds located on a watercourse, river or inland water in the area for which it is local control authority if subclause (1) or (2), or both, do not apply to the prevention, elimination or minimisation of the biosecurity risk posed or likely to be posed by those weeds because of an exemption granted by a local control authority or the Secretary under this Act.	24 25 26 27 28
(7)	This clause does not apply to land referred to in clause 5.	29
5	Duty to control weeds in irrigation areas	30
(1)	A biosecurity duty imposed on an occupier of land under Part 3 to prevent, eliminate or minimise any biosecurity risk posed or likely to be posed by weeds on that land extends, if the land is within an irrigation area, to weeds on:	31 32 33
(a)	any part of a public road, a public reserve or public channel land that intersects the occupier's land, or forms part of its boundary and is within 20 metres from the boundary of the land, and	34 35 36
(b)	any part of a watercourse, river or inland water (tidal or non-tidal) situated on the land.	37 38
(2)	If a public road, a public reserve or public channel land less than 40 metres wide is situated between land within an irrigation area occupied by different occupiers, a biosecurity duty imposed on each occupier under Part 3 to prevent, eliminate or minimise any biosecurity risk posed or likely to be posed by weeds extends to weeds located on that part of the road, reserve or channel land that is located between the boundary of the occupier's land and the middle line of the road, reserve or channel land.	39 40 41 42 43 44 45
(3)	An occupier of land is required to comply with any mandatory measures relating to weeds on land referred to in subclause (1) or (2) as if the occupier were dealing with those weeds.	46 47 48

- (4) An occupier may enter a public road, a public reserve or public channel land at all reasonable times for the purpose of discharging the occupier's biosecurity duty in relation to weeds or complying with a mandatory measure or biosecurity direction given in connection with weeds. 1
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Schedule 2 Prohibited matter

1

(Section 27)

2

Part 1 Prohibited matter—throughout the State

3

Column 1	Column 2
Scientific name	Common Name
Pests and Diseases of Plants	
<i>Achatina fulica</i>	Giant African snail
<i>Acleris comariana</i>	Strawberry tortix
<i>Adoxophyes orana</i>	Summer fruit tortrix
<i>Agrilus planipennis</i>	Emerald ash borer
<i>Aleurodicus dispersus</i>	Spiraling whitefly
<i>Aleurolobus barodensis</i>	Sugarcane whitefly
<i>Amyelois transitella</i>	Navel orangeworm
<i>Anarsia lineatella</i>	Peach twig borer
<i>Anisogramma anomala</i>	Hazelnut blight
<i>Anthonomus bisignifer</i>	Strawberry bud weevil
<i>Anthonomus grandis</i>	Boll weevil
<i>Apiosporina morbosa</i>	Black knot
<i>Bactericera cockerelli</i>	Tomato potato psyllid
<i>Bactrocera cucurbitae</i>	Melon fruit fly
<i>Bactrocera dorsalis</i>	Oriental fruit fly
<i>Bactrocera papayae</i>	Asian papaya fruit fly
Banana bract mosaic potyvirus	Banana bract mosaic disease
Blood disease bacterium	Blood disease
<i>Botrytis squamosa</i>	Botrytis leaf blight
<i>Burkholderia glumae</i>	Bacterial panicle rot
<i>Bursaphelenchus</i> species complex	Pinewood nematode species complex
<i>Candidatus Liberibacter asiaticus</i>	Huanglongbing (HLB)/citrus greening
<i>Candidatus Liberibacter solanacearum</i>	Zebra chip
<i>Ceratitis capitata</i>	Mediterranean fruit fly
Cherry leaf roll nepovirus	Blackline
<i>Ciborinia camelliae</i>	Camellia petal blight
Citrus leprosis virus	Citrus leprosis
Citrus tristeza closterovirus	Stem pitting strains of tristeza virus
<i>Cladosporium caryigenum</i>	Pecan scab
<i>Clavibacter michiganensis sepedonicus</i>	Bacterial ring rot/ring rot
<i>Colletotrichum kahawae</i>	Coffee berry disease

Column 1	Column 2
Scientific name	Common Name
<i>Colletotrichum lupini</i>	Lupin anthracnose
<i>Conotrachelus nenuphar</i>	Plum curculio
<i>Coryphodema tristis</i>	South African cossid
Cotton leaf curl begomovirus	Cotton leaf curl disease
<i>Cryphonectria parasitica</i>	Chestnut blight
<i>Cryptotermes brevis</i>	West Indian drywood termite
<i>Ctenopseustis obliquana</i>	Brown headed leafroller
<i>Delia antique</i>	Onion fly
<i>Dendroctonus ponderosae</i>	Mountain pine beetle
<i>Diaphorina citri</i>	Asiatic/Asian citrus psyllid
<i>Diuraphis noxia</i>	Russian wheat aphid
<i>Drosophila suzukii</i>	Spotted winged drosophila
<i>Endocronartium harknessii</i>	Western gall rust
<i>Erwinia amylovora</i>	Fire blight
<i>Erwinia tracheiphila</i>	Bacterial wilt
European stonefruit yellows phytoplasma	European stone fruit yellows
<i>Fusarium circinatum</i>	Pine pitch canker
<i>Fusarium oxysporum f. sp. cubense</i>	Panama disease tropical race 4
<i>Gibberella fujikuroi</i>	Bakanae disease
<i>Globodera pallida</i>	Pale potato cyst nematode
<i>Globodera rostochiensis</i>	Golden potato cyst nematode
Grapevine flavescence dorée phytoplasma	Flavescence dorée
<i>Guignardia bidwellii</i>	Black rot
<i>Halyomorpha halys</i>	Brown-marmorated stink bug
<i>Hemileia vastatrix</i>	Coffee leaf rust
<i>Heterobostrychus aequalis</i>	Lesser auger beetle
<i>Heterodera carotae</i>	Carrot cyst nematode
<i>Homalodisca vitripennis</i>	Glassy-winged sharpshooter
<i>Hylotrupes bajulus</i>	European house borer
<i>Ips typographus</i>	European spruce bark beetle
<i>Leptinotarsa decemlineata</i>	Colorado potato beetle
<i>Liriomyza sativa</i>	Vegetable leaf miner
<i>Lissorhoptrus oryzophilus</i>	Rice water weevil
<i>Lyctus africanus</i>	Powder post beetle
<i>Lygus hesperus</i>	Western plant bug
<i>Lymantria dispar</i>	Asian gypsy moth

Column 1	Column 2
Scientific name	Common Name
<i>Lymantria monachal</i>	Nun moth
<i>Mayetiola destructor</i>	Hessian fly
<i>Monochamus alternates</i>	Pine sawyer beetle
<i>Monilinia fructigena</i>	Brown rot
<i>Mycosphaerella eumusae</i>	Eumusae leaf spot
<i>Mycosphaerella fijiensis</i>	Black sigatoka
<i>Mythimna unipuncta</i>	Armyworm
<i>Neonectria ditissima</i>	European canker
<i>Oidium citri</i>	Powdery mildew (citrus)
<i>Ophiostoma novo-ulmi</i> var. <i>novo-ulmi</i> and var. <i>americana</i>	Dutch elm disease
<i>Orgyia thyellina</i>	White spotted tussock moth
<i>Pepino mosaic potexvirus</i>	Pepino mosaic virus
<i>Phakopsora euvitis</i>	Grapevine leaf rust
<i>Phoma tracheiphila</i>	Mal secco
<i>Phomopsis helianthi</i>	Sunflower stem canker
<i>Phyllosticta cavendishii</i>	Banana freckle
<i>Phymatotrichopsis omnivora</i>	Texas root rot
<i>Phytophthora fragariae</i> var. <i>fragariae</i>	Red stele root rot
<i>Phytophthora pinifolia</i>	Pine needle disease
<i>Phytophthora ramorum</i>	Sudden oak death
<i>Plum pox virus potyvirus</i>	Plum pox virus/sharka
<i>Pomacea canaliculata</i>	Golden apple snail
Potato spindle tuber pospiviroidae	Potato spindle tuber viroid (PSTVd)
<i>Prostephanus truncatus</i>	Larger grain borer
<i>Pseudococcus maritimus</i>	Grape mealybug
<i>Pseudomonas syringae</i> pv. <i>actinidiae</i>	PSA
<i>Psila rosa</i>	Carrot rust fly
<i>Puccinia asparagi</i>	Asparagus rust
<i>Puccinia graminis tritici</i> race Ug99	Wheat stem rust Ug99
<i>Puccinia striiformis</i> f. sp. <i>hordei</i>	Barley stripe rust
Pests and Diseases of Animals	
<i>Acaraspis woodi</i>	Acariasis Tracheal mite
<i>Anaplasma marginale</i>	Anaplasmosis
<i>Avian metapneumovirus</i>	Turkey rhinotracheitis
<i>Babesia bigemina</i> , <i>Babesia bovis</i>	Babesiosis

Column 1	Column 2
Scientific name	Common Name
<i>Babesia caballi</i> , <i>Babesia equi</i> (<i>Theileria equi</i>)	Equine piroplasmosis
<i>Braula coeca</i>	Braula fly, Bee louse
<i>Brucella abortus</i>	
<i>Brucella canis</i>	
<i>Brucella melitensis</i>	
<i>Burkholderia mallei</i>	Glanders
<i>Chlamydophila abortus</i> and <i>Chlamydia psittaci</i> serotype 1	Enzootic abortion of ewes
<i>Cochliomyia bezziana</i>	Screw-worm fly—Old World
<i>Cochliomyia hominivorax</i>	Screw-worm fly—New World
<i>Ehrlichia ruminantium</i>	Heartwater
<i>Histoplasma capsulatum</i> var. <i>farcinosum</i>	Epizootic lymphangitis
<i>Mycobacterium bovis</i>	Bovine tuberculosis due to <i>Mycobacterium bovis</i>
<i>Mycoplasma capricolum</i>	Contagious caprine pleuropneumonia
<i>Mycoplasma mycoides mycoides</i> small colony type	Contagious bovine pleuropneumonia
<i>Psoroptes ovis</i>	Sheep scab
<i>Rhipicephalus</i> (<i>Boophilus</i>) <i>microplus</i>	Cattle tick
<i>Salmonella abortus-equi</i>	Salmonellosis
<i>Salmonella abortus-ovis</i>	Salmonellosis
<i>Salmonella gallinarum</i>	Fowl Typhoid
<i>Taylorella equigenitalis</i>	Contagious equine metritis
<i>Theileria parva</i> , <i>Theileria annulata</i>	Exotic Theileria [East Coast Fever] and Mediterranean/Tropical Theileriosis
<i>Trichinella spiralis</i>	Trichinellosis
<i>Tropilaelaps clareae</i> , <i>Tropilaelaps mercedesae</i>	Tropilaelaps mite
<i>Trypanosoma cruzi</i>	Chagas' disease
<i>Trypanosoma equiperdum</i>	Dourine
<i>Trypanosoma evansi</i>	Surra
<i>Varroa destructor</i>	Varroa mite
<i>Varroa jacobsoni</i>	Varroa mite
	African horse sickness
	African swine fever
	Anthrax
	Aujeszký's disease
	Avian influenza
	Bluetongue (clinical disease)
	Borna disease

Column 1	Column 2
Scientific name	Common Name
	Bovine Virus Diarrhoea Type 2
	Brucella suis (in non-feral pigs)
	Camelpox
	Chronic wasting disease of deer
	Classical swine fever
	Contagious agalactia
	Crimean Congo haemorrhagic fever
	Devil Facial Tumour Disease
	Encephalitides (tick borne)
	Epizootic haemorrhagic disease (clinical disease)
	Equine encephalomyelitis (Eastern, Western and Venezuelan)
	Equine encephalosis
	Equine herpes—virus 1 (neurological strain)
	Equine influenza
	Feline spongiform encephalopathy
	Foot and Mouth Disease
	Getah virus infection
	Goat pox
	Haemorrhagic septicaemia
	Hendra virus infection (other than in pteropid bats)
	Infectious bursal disease (hypervirulent and exotic antigenic variant forms)
	Japanese encephalitis
	Jembrana disease
	Leishmaniasis
	Lumpy skin disease
	Lyssavirus including Australian Bat Lyssavirus
	Maedi-visna
	Malignant catarrhal fever (wildebeest associated)
	Menangle virus infection
	Nairobi sheep disease
	Newcastle disease (all strains other than non-pathogenic V4-like strains)
	Nipah virus infection
	Peste des petits ruminants
	Porcine enterovirus encephalomyelitis (Teschen)
	Porcine epidemic diarrhoea

Column 1	Column 2
Scientific name	Common Name
	Porcine myocarditis (Bungowannah virus infection)
	Porcine reproductive and respiratory syndrome
	Post-weaning multi-systemic wasting syndrome
	Potomac fever
	Pulmonary adenomatosis (Jaagsiekte)
	Rabies
	Rift Valley fever
	Rinderpest
	Scrapie
	Sheep pox
	Swine influenza (other than H1N1 2009)
	Swine vesicular disease
	Transmissible gastroenteritis
	Transmissible spongiform encephalopathies
	Trypanosomosis (tsetse fly associated)
	Tularaemia
	Vesicular exanthema
	Vesicular stomatitis
	Warble-fly myiasis
	Wesselsbron disease
Diseases of Aquatic animals	
<i>Aeromonas salmonicida salmonicida</i>	Furunculosis
<i>Aphanomyces astaci</i>	Crayfish plague
<i>Bonamia exitiosa</i>	Bonamia exitiosa
<i>Bonamia ostreae</i>	Bonamia ostreae
<i>Edwardsiella ictaluri</i>	Enteric septicaemia of catfish
<i>Gyrodactylus salaris</i>	Gyrodactylosis
<i>Marteilia refringens</i>	Marteilia refringens
<i>Marteilioides chungmuensis</i>	Marteilioides chungmuensis
<i>Mikrocytos mackini</i>	Mikrocytos mackini
<i>Myxobolus cerebralis</i>	Whirling disease
<i>Perkinsus marinus</i>	Perkinsus marinus
<i>Piscirickettsia salmonis</i>	Piscirickettsiosis
<i>Renibacterium salmoninarum</i>	Bacterial kidney disease
<i>Xenohalictis californiensis</i>	Xenohalictis californiensis

Column 1	Column 2
Scientific name	Common Name
<i>Yersinia ruckeri</i> (Hagerman strain)	Enteric redmouth disease Abalone viral ganglioneuritis Acute hepatopancreatic necrosis disease (AHPND) of crustaceans Channel catfish virus disease European catfish virus, European sheatfish virus Grouper iridoviral disease HPR-deleted or HPRO infectious salmon anaemia virus Salmonid alphavirus Infectious haematopoietic necrosis of finfish Infectious hypodermal and haematopoietic necrosis of crustaceans Infectious myonecrosis of crustaceans Infectious pancreatic necrosis of finfish Infectious spleen and kidney necrosis virus—ISKNV-like viruses Iridoviroses of molluscs Koi herpesvirus disease Monodon slow growth syndrome Necrotising hepatopancreatitis of crustaceans Red sea bream iridoviral disease Spring viraemia of carp Taura syndrome of crustaceans Viral haemorrhagic septicaemia of finfish White spot disease of crustaceans White tail disease of crustaceans Yellowhead disease—yellowhead virus

Pest Terrestrial Invertebrates

<i>Aedes albopictus</i>	Asian tiger mosquito
<i>Anoplolepis gracilipes</i>	Yellow crazy ant
<i>Apis cerana</i>	Asian honeybee
<i>Apis dorsata</i>	Giant honeybee
<i>Apis florea</i>	Dwarf honeybee
<i>Apis mellifera scutellata</i> and its hybrids	Africanised honeybees
<i>Hypoderma species</i>	Warble fly
<i>Lepisiota frauenfeldi</i>	Browsing ant

Column 1	Column 2
Scientific name	Common Name
<i>Linepithema humile</i>	Argentine ant
<i>Pheidole megacephala</i>	African big-headed ant
<i>Solenopsis geminata</i>	Tropical fire ant
<i>Solenopsis invicta</i>	Red imported fire ant
<i>Wasmannia auropunctata</i>	Electric ant or little fire ant
Terrestrial and freshwater weeds	
<i>Andropogon gayanus</i>	Gamba grass
<i>Annona glabra</i>	Pond apple
<i>Asparagus declinatus</i>	Bridal veil creeper
<i>Bassia scoparia</i>	Kochia
<i>Centaurea stoebe micranthos</i>	Spotted knapweed
<i>Centaurea x moncktonii</i>	Black knapweed
<i>Chromolaena odorata</i>	Siam weed
<i>Clidemia hirta</i>	Koster's curse
<i>Cryptostegia grandiflora</i>	Rubber vine
<i>Eichhornia azurea</i>	Anchored water hyacinth
<i>Hieracium spp.</i> (all species except <i>H. aurantiacum</i> and <i>H. murorum</i>)	Hawkweed
<i>Hydrocotyl ranunculoides</i>	Hydrocotyl/Water pennywort
<i>Lagarosiphon major</i>	Lagarosiphon
<i>Limnobium laevigatum</i> and <i>Limnobium spongia</i>	Frogbit/Spongeplant
<i>Limnocharis flava</i>	Yellow burrhead
<i>Miconia spp.</i> (all species)	Miconia
<i>Mikania micrantha</i>	Mikania vine
<i>Mimosa pigra</i>	Mimosa
<i>Myriophyllum spicatum</i>	Eurasian water milfoil
<i>Nassella tenuissima</i> (syn. <i>Stipa tenuissima</i>)	Mexican feather grass
<i>Orobanche spp.</i> (all species except the native <i>O. cernua</i> var. <i>australiana</i> and <i>O. minor</i>)	Broomrapes
<i>Parthenium hysterophorus</i>	Parthenium weed
<i>Stratiotes aloides</i>	Water soldier
<i>Striga spp.</i> (all species except the native <i>S. parviflora</i>)	Witchweed
<i>Trapa species</i>	Water caltrop
<i>Vachellia karroo</i> (syn. <i>Acacia karoo</i>)	Karoo Acacia
<i>Vachellia nilotica</i> (syn. <i>Acacia nilotica</i>)	Prickly acacia

Column 1	Column 2
Scientific name	Common Name
Aquatic Pests	
<u>Pest Marine and Freshwater Finfish</u>	
<i>Acestrorhynchus microlepis</i>	
<i>Acipenser baerii baerii</i>	Siberian sturgeon
<i>Acipenser baerii baicalensis</i>	Baikal sturgeon
<i>Acipenser brevirostrum</i>	Shortnose sturgeon
<i>Acipenser dabryanus</i>	Yangtze sturgeon
<i>Acipenser fulvescens</i>	Lake sturgeon
<i>Acipenser gueldenstaedtii</i>	Russian sturgeon
<i>Acipenser medirostris</i>	Green sturgeon
<i>Acipenser mikadoi</i>	Sakhalin sturgeon
<i>Acipenser multiscutatus</i>	Japanese sturgeon
<i>Acipenser naccarii</i>	Adriatic sturgeon
<i>Acipenser nudiventris</i>	Fringebarbel sturgeon
<i>Acipenser oxyrinchus desotoi</i>	Gulf sturgeon
<i>Acipenser oxyrinchus oxyrinchus</i>	Atlantic sturgeon
<i>Acipenser persicus</i>	Persian sturgeon
<i>Acipenser ruthenus</i>	Sterlet
<i>Acipenser schrenckii</i>	Amur sturgeon
<i>Acipenser sinensis</i>	Chinese sturgeon
<i>Acipenser stellatus</i>	Starry sturgeon
<i>Acipenser sturio</i>	European sturgeon
<i>Acipenser transmontanus</i>	White sturgeon
<i>Alfaro cultratus</i>	Knife-edged livebearer
<i>Alfaro huberi</i>	
<i>Allomogurnda nesolepis</i>	Yellowbelly gudgeon
<i>Ameiurus brunneus</i>	Snail bullhead
<i>Ameiurus catus</i>	White catfish
<i>Ameiurus melas</i>	Black bullhead
<i>Ameiurus natalis</i>	Yellow bullhead
<i>Ameiurus nebulosus</i>	Brown bullhead
<i>Ameiurus platycephalus</i>	Flat bullhead
<i>Ameiurus serracanthus</i>	Spotted bullhead
<i>Amia calva</i>	Bowfin
<i>Anabas cobojius</i>	Gangetic Climbing perch
<i>Anabas testudineus</i>	Climbing perch

Column 1	Column 2
Scientific name	Common Name
<i>Anaspidoglanis macrostoma</i>	Flatnose catfish
<i>Apeltes quadracus</i>	Four spined stickleback
<i>Aristichthys nobilis</i>	Bighead carp
<i>Astyanax aeneus</i>	Banded tetra
<i>Astyanax fasciatus</i>	Banded astyanax
<i>Atractosteus</i> spp. (all species except <i>A.spatula</i>)	American gar, armoured gar
<i>Bagrus ubangensis</i>	Ubangi shovelnose catfish
<i>Barbodes hexagonolepis</i>	Copper mahseer
<i>Belonesox belizanus</i>	Pike minnow, pike killifish
<i>Boulengerochromis microlepis</i>	Giant cichlid, yellow belly cichlid
<i>Catla catla</i>	Catla
<i>Catlocarpio siamensis</i>	Giant barb
<i>Centrarchidae</i> family	
<i>Centropomus</i> spp. (all species)	
<i>Chaca bankanensis</i>	Angler catfish
<i>Chaca burmensis</i>	Burmensis frogmouth catfish
<i>Chaca chaca</i>	Squarehead catfish
<i>Channa</i> spp. (all species)	Snake head
<i>Cirrhinus cirrhosus</i>	Mrigal
<i>Clarias</i> spp. (all species)	Walking catfish
<i>Colossoma</i> spp. (all species)	
<i>Ctenopharyngodon idella</i>	Grass carp
<i>Ctenopoma argentoventer</i>	Silverbelly ctenopoma
<i>Ctenopoma kingsleyae</i>	Tailspot ctenopoma
<i>Ctenopoma multispine</i>	Manyspined ctenopoma
<i>Ctenopoma muriei</i>	Ocellated labyrinth fish
<i>Ctenopoma nitropannosum</i>	wospot climbing perch
<i>Ctenopoma ocellatum</i>	Eyespot ctenopoma
<i>Ctenopoma weeksii</i>	Mottled ctenopoma
<i>Culaea inconstans</i>	
<i>Dormitator latifrons</i>	Pacific fat sleeper
<i>Dormitator lebretonis</i>	
<i>Dormitator maculatus</i>	Pacific sleeper
<i>Elassoma</i> spp. (all species)	Pygmy sunfish
<i>Electrophorus electricus</i>	Electric eel
<i>Eleotris amblyopsis</i>	Large scaled spiny cheek sleeper

Column 1	Column 2
Scientific name	Common Name
<i>Eleotris sandwicensis</i>	Sandwich Island Sleeper
<i>Erpetoichthys calabaricus</i>	Reedfish
<i>Erythrinus</i> spp. (all species)	
<i>Esox</i> spp. (all species)	Pike
<i>Gambusia</i> spp. (all species except <i>G. holbrooki</i>)	
<i>Gobiomorphus gobioides</i>	Giant bully
<i>Gobiomorphus huttoni</i>	Redfin bully
<i>Gobiomorus dormitor</i>	
<i>Gobiomorus maculatus</i>	
<i>Gymnarchus niloticus</i>	
<i>Helicophagus leptorhynchus</i>	
<i>Helicophagus waandersii</i>	
<i>Hemichromis fasciatus</i>	
<i>Hepsetus odoe</i>	
<i>Heterandria bimaculata</i>	
<i>Heteropneustes fossilis</i>	
<i>Himantura kittipongi</i>	
<i>Himantura krempfi</i>	Marbled freshwater whip ray
<i>Himantura oxyrhyncha</i>	Marbled whipray
<i>Hoplerythrinus</i> spp. (all species)	
<i>Hoplias</i> spp. (all species)	
<i>Huso huso</i>	
<i>Hydrocynus</i> spp. (all species)	
<i>Hypophthalmichthys molitrix</i>	
<i>Hypseleotris cyprinoides</i>	
<i>Hypseleotris tohizonae</i>	
Ichthyborinae subfamily (all species)	
<i>Ictalurus balsanus</i>	Balsas catfish
<i>Ictalurus dugesii</i>	Lerma catfish
<i>Ictalurus furcatus</i>	Blue catfish
<i>Ictalurus lupus</i>	Headwater catfish
<i>Ictalurus mexicanus</i>	Rio Verde catfish
<i>Ictalurus ochoterenai</i>	Chapala catfish
<i>Ictalurus pricei</i>	Yaqui catfish
<i>Ictalurus punctatus</i>	
<i>Labeo calabasu</i>	

Column 1	Column 2
Scientific name	Common Name
<i>Labeo rohita</i>	
<i>Lates microlepis</i>	
<i>Lates niloticus</i>	
<i>Lebiasina bimaculata</i>	
<i>Lepidosiren paradoxa</i>	
<i>Leptolebias aureoguttatus</i>	
<i>Leptolebias marmoratus</i>	Marbled pearlfish
<i>Leptolebias minimus</i>	Barred tail pearlfish
<i>Leptolebias opalescens</i>	Opal pearlfish
<i>Malapterurus spp.</i> (all species)	Electric catfish
<i>Mormyrops anguilloides</i>	Cornish jack
<i>Mytilopsis spp.</i> (all species)	Black striped mussel
<i>Neogobius melanostomus</i>	Round goby
<i>Notropis spp.</i> (all species)	Shiner
<i>Noturus albater</i>	Ozark madtom
<i>Noturus baileyi</i>	Smoky madtom
<i>Noturus crypticus</i>	Chucky madtom
<i>Noturus elegans</i>	Elegant madtom
<i>Noturus eleutherus</i>	Mountain madtom
<i>Noturus exilis</i>	Slender madtom
<i>Noturus fasciatus</i>	Saddled madtom
<i>Noturus flavater</i>	Checkered madtom
<i>Noturus flavipinnis</i>	Yellowfin madtom
<i>Noturus flavus</i>	Stonecat
<i>Noturus funebris</i>	Black madtom
<i>Noturus furiosus</i>	Carolina madtom
<i>Noturus gilberti</i>	Orangefin madtom
<i>Noturus gladiator</i>	
<i>Noturus gyrinus</i>	Tadpole madtom
<i>Noturus hildebrandi hildebrandi</i>	Least madtom
<i>Noturus hildebrandi lautus</i>	
<i>Noturus insignis</i>	Margined madtom
<i>Noturus lachneri</i>	Ouachita madtom
<i>Noturus leptacanthus</i>	Speckled madtom
<i>Noturus maydeni</i>	Black River madtom
<i>Noturus miurus</i>	Brindled madtom

Column 1	Column 2
Scientific name	Common Name
<i>Noturus munitus</i>	Frecklebelly madtom
<i>Noturus nocturnus</i>	Freckled madtom
<i>Noturus phaeus</i>	Brown madtom
<i>Noturus placidus</i>	Neosho madtom
<i>Noturus stanauli</i>	Pygmy madtom
<i>Noturus stigmosus</i>	Northern madtom
<i>Noturus taylori</i>	Caddo madtom
<i>Noturus trautmani</i>	Scioto madtom
<i>Oreochromis spp.</i> (all species)	Tilapia, Mozambique mouthbrooder
<i>Oxydoras spp.</i> (all species)	Ripsaw catfish, black doras, black shielded catfish
<i>Oxyeleotris heterodon</i>	Sentani gudgeon
<i>Oxyeleotris marmorata</i>	Marble goby
<i>Oxyeleotris siamensis</i>	
<i>Oxyeleotris urophthalmoides</i>	
<i>Oxyeleotris urophthalmus</i>	
<i>Pangasianodon gigas</i>	Mekong giant catfish
<i>Pangasius conchophilus</i>	
<i>Pangasius elongatus</i>	
<i>Pangasius krempfi</i>	
<i>Pangasius kunyit</i>	
<i>Pangasius larnaudii</i>	Spot pangasius
<i>Pangasius macronema</i>	
<i>Pangasius nasutus</i>	
<i>Pangasius nieuwenhuisii</i>	
<i>Pangasius pangasius</i>	Yellowtailed catfish
<i>Paratrygon aiereba</i>	Discus ray
<i>Paravandelia oxyptera</i>	Pantanal parasitic catfish
<i>Phoxinus erythrogaster</i>	Southern redbelly dace
<i>Polyodon spathula</i>	Mississippi paddlefish
<i>Procambarus clarkii</i>	Red swamp crayfish
<i>Protopterus aethiopicus</i>	Marbled lungfish
<i>Protopterus amphibius</i>	Gilled lungfish
<i>Protopterus annectens</i>	African lungfish
<i>Protopterus dolloi</i>	Slender lungfish
<i>Psephurus gladius</i>	Chinese swordfish
<i>Pungitius pungitius</i>	Ninespine stickleback

Column 1	Column 2
Scientific name	Common Name
<i>Pygocentrus spp.</i> (all species)	Red piranha
<i>Pylodictis olivaris</i>	Flathead catfish
<i>Rutilus rutilus</i>	Roach
<i>Sargochromis spp.</i> (all species)	Pink happy, slender happy, cunene happy, green happy
<i>Sarotherodon spp.</i> (all species)	Blackchin tilapia
<i>Schilbe intermedius</i>	Silver butter catfish
<i>Schilbe marmoratus</i>	Shoulderspot catfish
<i>Schilbe mystus</i>	African butter catfish
<i>Serranochromis spp.</i> (all species)	
<i>Serrasalmus spp.</i> (all species)	Redeye piranha
<i>Siganus rivulatus</i>	Marbled spinefoot
<i>Silurus spp.</i> (all species)	European catfish, wels catfish
<i>Tilapia spp.</i> (all species except <i>T. buttikoferi</i>)	Redbelly tilapia
<i>Tinca tinca</i>	Tench
<i>Tomeurus gracilis</i>	
<i>Tor spp.</i> (all species)	River carp, deccan mahseer, high backed mahseer, jungaha mahseer, Thai mahseer
<i>Valencia hispanica</i>	Valencia toothcarp
<i>Zacco platypus</i>	Freshwater minnow
<u>Pest Marine Invertebrates</u>	
<i>Asterias amurensis</i>	Northern Pacific seastar
<i>Balanus improvisus</i>	Barnacle
<i>Charybdis japonica</i>	Lady crab
<i>Crepidula fornicata</i>	American slipper limpet, slipper limpet
<i>Didemnum vexillum</i>	Colonial sea squirt
<i>Ensis directus</i>	Jack-knife clam
<i>Eriocheir spp.</i> (all species)	Chinese mitten crab
<i>Hemigrapsus penicillatus</i>	Pacific crab, brush-clawed shore crab
<i>Hemigrapsus sanguineus</i>	Japanese shore crab, Asian shore crab
<i>Hemigrapsus takanoi</i>	Pacific crab, brush-clawed shore crab
<i>Mnemiopsis leidyi</i>	Comb jelly, sea walnut
<i>Musculista senhousia</i>	Asian bag mussel, Asian date mussel
<i>Mya arenaria</i>	Soft shell clam
<i>Mytilopsis sallei</i>	Black-striped mussel
<i>Perna canaliculus</i>	New Zealand green lipped mussel

Column 1	Column 2
Scientific name	Common Name
<i>Perna perna</i>	Brown mussel
<i>Perna viridis</i>	Asian green mussel
<i>Potamocorbula amurensis</i>	Asian clam, brackish-water corbula
<i>Rapana venosa</i>	Rapa whelk
<i>Varicorbula gibba</i>	European clam
<u>Pest Marine Plants</u>	
<i>Grateloupia turuturu</i>	Red macroalga
<i>Sargassum muticum</i>	Asian seaweed

Part 2 Prohibited matter—part of the State

1

Column 1	Column 2	Column 3
Scientific name	Common name	Part of State in which matter is prohibited matter
Plant pests and diseases		
<i>Daktulosphaira vitifoliae</i>	grape vine phylloxera	All of NSW except the following local government areas: Albury/Corowa Phylloxera Infested Zone City of Albury Corowa Shire (that part within the County of Hume) Greater Hume Shire, excluding the former local government areas of Culcairn and Holbrook Sydney Basin Phylloxera Infested Zone Ashfield City of Auburn City of Bankstown City of Blacktown City of Botany Bay Burwood Camden City of Campbelltown Canada Bay City of Canterbury City of Fairfield City of Hawkesbury (within the County of Cumberland) City of Holroyd Hornsby Hunter's Hill

Column 1	Column 2	Column 3
Scientific name	Common name	Part of State in which matter is prohibited matter
		City of Hurstville
		City of Kogarah
		Ku-ring-gai
		Lane Cove
		Leichhardt
		City of Liverpool
		Manly
		Marrickville
		Mosman
		North Sydney
		City of Parramatta
		City of Penrith (other than the portion west of the Nepean River)
		Pittwater
		City of Randwick
		City of Rockdale
		City of Ryde
		Strathfield
		Sutherland Shire
		City of Sydney
		The Hills Shire
		Warringah
		Waverly
		City of Willoughby
		Wollondilly (portion that is within the counties of Cumberland and Camden)
		City of Wollongong
		Woollahra
Invertebrate pests		
<i>Pheidole megacephala</i>	African big-headed ant	Lord Howe Island only

Schedule 3	Prohibited dealings	1
	(Section 141)	2
1	Dealings with class 1a and 1b non-indigenous animals	3
	Any dealing with a non-indigenous animal classified under the regulations as class 1a or 1b.	4 5
2	Dealings with class 2 and 3a non-indigenous animals	6
(1)	Any dealing with a non-indigenous animal classified under the regulations as class 2 or 3a, unless the dealing is for permitted exhibition purposes or for permitted research purposes.	7 8 9
(2)	A dealing is for permitted exhibition purposes if the animal is to be kept at an animal display establishment (within the meaning of the <i>Exhibited Animals Protection Act 1986</i>) authorised by a licence under that Act.	10 11 12
(3)	A dealing is for permitted research purposes if:	13
(a)	the person keeping the animal is accredited as a research establishment under the <i>Animal Research Act 1985</i> , or	14 15
(b)	the person keeping the animal holds an animal research authority under the <i>Animal Research Act 1985</i> , or	16 17
(c)	the person keeping the animal holds an animal supplier's licence under the <i>Animal Research Act 1985</i> .	18 19

Schedule 4	Registrable dealings	1
	(Section 143)	2
1	Bee-keeping	3
	Dealing with managed bees.	4
2	Class 3b non-indigenous animals	5
(1)	Dealing with any non-indigenous animal classified under the regulations as class 3b, unless the dealing is for permitted exhibition purposes or permitted research purposes.	6 7 8
(2)	A dealing is for permitted exhibition purposes if the animal is to be kept at an animal display establishment (within the meaning of the <i>Exhibited Animals Protection Act 1986</i>) authorised by a licence under that Act.	9 10 11
(3)	A dealing is for permitted research purposes if:	12
(a)	the person keeping the animal is accredited as a research establishment under the <i>Animal Research Act 1985</i> , or	13 14
(b)	the person keeping the animal holds an animal research authority under the <i>Animal Research Act 1985</i> , or	15 16
(c)	the person keeping the animal holds an animal supplier's licence under the <i>Animal Research Act 1985</i> .	17 18

Schedule 5	Regulation-making powers	1
1	Exemptions	2
	The exemption of any person, class of persons, matter or thing from the operation of this Act or any specified provision of this Act, either unconditionally or subject to conditions.	3 4 5
2	Fees	6
	The fees payable under this Act, including the following:	7
	(a) exemptions from fees,	8
	(b) reduction, waiver or refund of fees,	9
	(c) payment of fees by instalments,	10
	(d) the method by which a fee is to be calculated (such as by reference to an hourly rate),	11 12
	(e) the time for payment of fees (including payment in advance or the payment of a deposit towards a fee),	13 14
	(f) penalties for the late payment of fees,	15
	(g) the charging of interest on overdue fees.	16
3	Identification and tracing of biosecurity matter	17
	The marking or other identification of biosecurity matter, and the tracing of biosecurity matter, for or in connection with the management or control of disease or other biosecurity impacts, whether on a mandatory or voluntary basis.	18 19 20
4	Classification	21
	The classification of non-indigenous animals for the purposes of this Act.	22
5	Authorised officers	23
	The powers of authorised officers under this Act.	24