

# Animal Diseases and Animal Pests (Emergency Outbreaks) Act 1991 No 73

[1991-73]



New South Wales

## Status Information

### Currency of version

Historical version for 10 September 2012 to 3 July 2014 (accessed 5 January 2025 at 9:53)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Previously named**  
Animal Diseases (Emergency Outbreaks) Act 1991  
Exotic Diseases of Animals Act 1991
- **Does not include amendments by**  
[Statute Law \(Miscellaneous Provisions\) Act 2014 No 33](#) (not commenced — to commence on 4.7.2014)

### Authorisation

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File last modified 24 June 2014

# Animal Diseases and Animal Pests (Emergency Outbreaks) Act 1991 No 73



New South Wales

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# Animal Diseases and Animal Pests (Emergency Outbreaks) Act 1991 No 73



New South Wales

An Act to provide for the detection, containment and eradication of certain diseases affecting livestock and other animals and certain animal pests; to amend the [Stock Diseases Act 1923](#) and certain other Acts consequentially; and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act is the [Animal Diseases and Animal Pests \(Emergency Outbreaks\) Act 1991](#).

### 2 Commencement

This Act commences on a day or days to be appointed by proclamation.

### 3 Definitions

Words and expressions that are defined in the Dictionary at the end of this Act have the meanings set out in that Dictionary.

### 4 Crown bound by this Act

- (1) This Act binds the Crown not only in right of New South Wales but also, in so far as the legislative power of Parliament permits, in all its other capacities.
- (2) Nothing in this Act renders the Crown, whether in right of New South Wales or otherwise, liable to be prosecuted for an offence against this Act or the regulations.

### 5 Application of this Act to land

- (1) This Act, in so far as it confers any function that may be exercised in relation to land, applies to all land, whatever its status.
- (2) In particular, this Act applies to premises, areas and places:
  - (a) that are the property of the Crown, or that are dedicated or reserved for any purpose, or protected or otherwise dealt with, under any other Act, or



(b) the care, control, management or supervision of which is vested in any statutory authority or other person.

(3) It is not necessary, in order for any premises, area or place to be made a declared area or to be quarantined under this Act, or for the validity of any order or the exercise of any power to enter premises or of any other function conferred by this Act, to obtain the consent of any person or body or to meet any requirements other than the requirements of this Act.

## **6 Application of this Act to animals**

(1) This Act, in so far as it confers any function that may be exercised in relation to animals, applies to all animals, whatever their status and whether or not the property of the Crown or any person.

(2) In particular, this Act applies to animals:

(a) that are protected or otherwise dealt with under any Act, or

(b) the care, control, management or supervision of which is vested by any Act in the Crown or any statutory authority or other person.

(3) It is not necessary for the validity of any order under this Act for the destruction, confinement or other control or treatment of, or otherwise affecting, any animal, or for the exercise of any other function conferred by this Act in relation to animals, to obtain the consent of any person or body or to meet any requirements other than the requirements of this Act.

(4) Nothing in this Act authorises wanton cruelty to any animal.

### **6A Meaning of “emergency animal disease”**

(1) For the purposes of this Act, **emergency animal disease** means any of the following:

(a) bovine spongiform encephalopathy,

(b) foot and mouth disease,

(c) rabies,

(d) any other animal disease declared by the Minister, by order in writing, to be an emergency animal disease for the purposes of this Act.

(2) An order by the Minister under this section:

(a) comes into force on the date that it is signed, and

(b) must be published in the Gazette within 14 days after that date.

- (3) An order which has not been so published within 14 days after it was made is taken (unless it has already been revoked) to have been revoked at the end of that 14-day period.

**Editorial note—**

For orders published in the Gazette under this section, or taken to have been published under this section (see clause 3 of Schedule 1), see Gazettes No 89 of 13.7.2005, p 3699; No 148 of 2.12.2005, p 9896; No 180 of 7.12.2007, p 9455; No 2 of 2.1.2009, p 16; No 43 of 3.5.2011, p 2739; No 90 of 16.9.2011, p 5523; No 49 of 19.4.2013, p 1002 and No 25 of 7.3.2014, p 894.

**6B Meaning of “emergency animal pest”**

- (1) For the purposes of this Act, **emergency animal pest** means any animal that is not indigenous to a particular area and is an animal of a kind declared by the Minister, by order in writing, to be an emergency animal pest for the purposes of this Act.
- (2) An order by the Minister under this section:
  - (a) comes into force on the date that it is signed, and
  - (b) must be published in the Gazette within 14 days after that date.
- (3) An order that is not published within 14 days after it is made is taken (unless it has already been revoked) to have been revoked at the end of that 14-day period.

**Editorial note—**

For orders published in the Gazette under this section see Gazettes No 49 of 19.4.2013, p 1002 and No 25 of 7.3.2014, p 894.

**Part 2 Responsibilities of animal owners and others**

**7 Duty to notify**

- (1) A person:
  - (a) who owns or is in charge of, or has in his or her possession or control, an animal or animal product which the person suspects is infected with an emergency animal disease, or
  - (b) who, as a veterinary practitioner or otherwise, is consulted in relation to an animal or animal product which he or she suspects is infected with an emergency animal disease,

and who does not, as soon as possible after becoming aware of or suspecting that the animal or animal product is infected, report the fact to an inspector by the quickest means of communication available to the person is guilty of an offence.

Maximum penalty: 200 penalty units.

(2) Without limiting any requirement under subsection (1), a veterinary practitioner must, as soon as possible after becoming aware of or suspecting that an animal or animal product the practitioner is examining (or in respect of which the practitioner has been consulted) is infected with a disease (other than an emergency animal disease) that the practitioner suspects:

(a) is a new or emerging disease, or

(b) is not endemic to this State, or

(c) does not usually occur in the species of animal (or in the kind of animal product) that the practitioner is examining or in respect of which the practitioner has been consulted,

report the fact to an inspector by the quickest means of communication available to the veterinary practitioner.

Maximum penalty: 200 penalty units.

## **8 Separation of infected animals and products**

(1) A person who owns or is in charge of, or has in his or her possession or control, an animal or animal product which the person suspects is infected with an emergency animal disease must as far as practicable keep that animal or animal product separate from animals or animal products not so infected.

(2) A person who contravenes this section is guilty of an offence.

Maximum penalty: 200 penalty units.

## **9 Possession or administration of animal disease agents**

(1) A person who:

(a) is in possession of an animal disease agent, or

(b) administers an animal disease agent, or causes or permits the administration of an animal disease agent, directly or indirectly to an animal, or

(c) threatens to administer an animal disease agent directly or indirectly to an animal, is guilty of an offence.

Maximum penalty: 1,000 penalty units or imprisonment for 2 years, or both.

(2) This section does not apply to a person who has the authority of the Chief Veterinary Officer to be in possession of an animal disease agent and who is acting in accordance with the regulations.

## **Part 3 Declared areas etc**

### **Division 1 Infected places and infected vehicles**

#### **10 Declaration of infected place**

If the Minister reasonably suspects any premises, place or area within the State to be infected with an emergency animal disease, the Minister may by order in writing declare it to be an infected place.

#### **11 Declaration of infected vehicle**

If the Minister reasonably suspects any vehicle to be infected with an emergency animal disease, the Minister may by order in writing declare it to be an infected vehicle.

#### **11A Extent of declaration**

- (1) A declaration under section 10 or 11 must identify the classes or descriptions of animals, animal products, fodder, fittings, soil, vehicles or other things that are affected by the declaration.
- (2) For the purposes of this section, a declaration may identify a class or description of things that are not animals, animal products, fodder, fittings, soil or vehicles as affected by the declaration if those things are or could be infected with an emergency animal disease, or could assist the spread of infection of an emergency animal disease.

#### **12 Permit for entry or exit**

- (1) A person (other than an inspector) who:
  - (a) enters or leaves any premises, place or area declared to be an infected place or a vehicle declared to be an infected vehicle, or
  - (b) causes, permits or assists any other person to enter or leave any such premises, place, area or vehicle, or
  - (c) brings, moves or takes, or allows any person to bring, move or take, any animal, animal product, fodder, fitting, soil or other thing to which the relevant declaration applies into, within or out of any such premises, place, area or vehicle, or
  - (d) causes, permits or assists any vehicle to enter or leave any premises, place or area declared to be an infected place,

is guilty of an offence unless the person is authorised to do so by a permit and the person complies with any conditions set out in the permit.

Maximum penalty: 400 penalty units or imprisonment for 12 months, or both.

- (2) Without limiting the powers of an inspector to attach conditions to a permit, a permit referred to in subsection (1) may be issued subject to the condition that the holder of the permit, or the animal, animal product, fodder, fitting, soil, vehicle or thing to which the permit relates:
- (a) must first be effectively disinfected to the satisfaction of the inspector and in a manner specified by the inspector before leaving or being taken out of the infected place or infected vehicle, and
  - (b) must not go or be brought to any other premises or place where any specified animals, animal products, fodder, fittings, soil or other things are located.

### **13 Entry and exit points**

- (1) Any movement of:
- (a) any vehicle affected by the relevant declaration into or out of an infected place, or
  - (b) any animal, animal product, fodder, fittings, soil or other thing affected by the relevant declaration into or out of an infected place or infected vehicle, or
  - (c) any person into or out of any such infected place or infected vehicle,
- must be made only through a point or points specified in a notice issued by an inspector to the person in charge, or in apparent control, of the infected place or infected vehicle.
- (2) The inspector may cause the notice to be published in a local newspaper or on the Department's internet website, or both.
- (3) A person who knows or has reason to believe any premises, place or area to be an infected place or that a vehicle is an infected vehicle and who, in contravention of this section:
- (a) goes into or out of the infected place or infected vehicle, or
  - (b) moves any other person into or out of the infected place or infected vehicle, or
  - (c) moves any animal, animal product, fodder, fitting, soil, vehicle or other thing affected by the relevant declaration into or out of the infected place or infected vehicle,

is guilty of an offence.

Maximum penalty: 400 penalty units or imprisonment for 12 months, or both.

### **14 Notice of order declaring area or vehicle infected**

- (1) Written notice of an order declaring any premises, place or area to be an infected place must be given to the owner or person in charge or in apparent control of the

premises, place or area to which the order relates.

- (2) Written notice of an order declaring a vehicle to be an infected vehicle must be given to the owner or person in charge or in apparent control of the vehicle to which the order relates.

## **Division 2 Restricted areas**

### **15 Declaration of restricted area**

- (1) If, in the opinion of the Minister, there is a possibility that any premises, place or area within the State may be or become infected with an emergency animal disease, the Minister may by order in writing declare the premises, place or area concerned to be a restricted area.
- (2) The declaration must identify the boundaries of the restricted area and the classes or descriptions of animals, animal products, fodder, fittings, soil, vehicles or other things that are affected by it.
- (3) For the purposes of this section, a declaration may identify a class or description of things that are not animals, animal products, fodder, fittings, soil or vehicles as affected by the declaration if those things are or could be infected with an emergency animal disease, or could assist the spread of infection of an emergency animal disease.

### **16 Permit for entry or exit**

- (1) A person who causes or permits any animals, animal products, fodder, fittings, soil, vehicles or other things to which the relevant declaration applies to be moved into, within or out of a restricted area is guilty of an offence unless the person is authorised to do so by a permit and the person complies with any condition set out in the permit.

Maximum penalty: 400 penalty units or imprisonment for 12 months, or both.

- (2) Without limiting the powers of an inspector to attach conditions to a permit, a permit referred to in subsection (1) may be issued subject to the condition that the holder of the permit, or the animal, animal product, fodder, fitting, soil, vehicle or other thing to which the permit relates, is effectively disinfected to the satisfaction of the inspector and in a manner specified by the inspector, before leaving or being taken out of the restricted area.

### **17 Variation of boundaries of restricted areas including parts of roadways**

- (1) The boundaries of a restricted area as fixed by the relevant declaration may be varied, in so far as a restricted area includes any part of a roadway, by moving, in a manner appropriate to the new boundary, any sign placed pursuant to this Act as an indicator of the boundaries of the restricted area across the roadway.

- (2) The variation takes effect when the sign is moved to indicate the variation.

### **18 Entry and exit points**

- (1) Any movement of any animal, animal product, fodder, fittings, soil, vehicle or other thing affected by the relevant declaration into or out of a restricted area must be made only through a point or points specified in a notice issued by an inspector and published in a local newspaper or on the Department's internet website, or both.
- (2) A person who knows, or has reason to believe, that any premises, place or area has been constituted a restricted area and who moves any animal, animal product, fodder, fittings, soil, vehicle or other thing affected by the relevant declaration into or out of the premises, place or area in contravention of this section is guilty of an offence.

Maximum penalty: 400 penalty units or imprisonment for 12 months, or both.

### **19 Notice of order constituting restricted area**

- (1) Notice of an order declaring any premises, place or area to be a restricted area must be published:
- (a) in the Gazette, and
  - (b) in a local newspaper or on the Department's internet website, or both.
- (2) An order of which notice has not been so published within 14 days after it was made is taken (unless it has already been revoked) to have been revoked at the end of that 14-day period.

### **20 Area restriction order**

- (1) The Minister may, by order published in the Gazette (an **area restriction order**), direct all or any specified persons or class of persons within a restricted area to take measures specified in the order for the purpose of controlling, eradicating or preventing the spread of an emergency animal disease.
- (1AA) An area restriction order may also authorise inspectors to take measures specified in the order within the restricted area for the purpose of controlling, eradicating or preventing the spread of an emergency animal disease.
- (1A) An area restriction order must also be published in a local newspaper or on the Department's internet website, or both.
- (2) An area restriction order takes effect on publication and may do any of the following:
- (a) require or authorise animals to be vaccinated, mustered or confined in a specified manner,
  - (b) require or authorise facilities to be provided for the inspection, testing or

treatment of animals,

(c) require or authorise animals, premises, vehicles or things (including soil) to be disinfected,

(d) require or authorise other measures to be taken which the Minister considers reasonably necessary in the circumstances.

(3) A person who contravenes an area restriction order is guilty of an offence.

Maximum penalty: 400 penalty units or imprisonment for 12 months, or both.

## **Division 3 Control areas**

### **21 Declaration of control area**

(1) The Minister may by order in writing declare any premises, place or area within the State to be a control area if, in the opinion of the Minister, this is reasonably necessary for the purpose of preventing the spread of an emergency animal disease.

(2) The declaration must identify the boundaries of the control area.

### **22 Control orders**

(1) The Minister may, with respect to the whole or a specified part of a control area, by order in writing (a **control order**):

(a) prohibit, regulate or control any of the following:

(i) the holding of markets, fairs, sales, shows, parades, race meetings or other gatherings or competitions involving animals or animal products,

(ii) the presence or exposure of all or any specified animals or animal products at any place where animals or animal products are exposed for sale,

(iii) the presence or exposure of all or any specified animals at any place where animals are exposed for exhibition, parade, race meetings or any form of recreation or competition,

(iv) the sale, presence or exposure of all or any specified animals or animal products at places where animals or animal products are commonly made fit for human or animal consumption,

(v) the movement of all or any specified animals or animal products, or any soil, into, out of or within the control area or specified part of the control area, or

(b) order all or any specified persons within a control area or a specified part of a control area to take such measures as the Minister thinks fit to contain or eradicate the emergency animal disease.



- (1A) A control order may also authorise inspectors to take measures specified in the order within the control area or a specified part of the control area for the purpose of controlling, eradicating or preventing the spread of an emergency animal disease.
- (2) A person who contravenes a control order is guilty of an offence.  
Maximum penalty: 200 penalty units or imprisonment for 6 months, or both.
- (2A) A person does not commit an offence under subsection (2) of contravening a control order if the act constituting the contravention is authorised by a permit granted to the person.
- (3) An order made in accordance with subsection (1) (b) must specify:
- (a) the control area or the specified part of a control area to which the order relates, and
  - (b) the persons, or the specified persons, to whom the order applies, and
  - (c) the measures that those persons must take.

### **23 Notice of order constituting control area**

- (1) Notice of an order declaring any premises, place or area to be a control area must be published:
- (a) in the Gazette, and
  - (b) in a local newspaper or on the Department's internet website, or both.
- (2) An order of which notice has not been so published within 14 days after it was made is taken (unless it has already been revoked) to have been revoked at the end of that 14-day period.

## **Division 4 General**

### **24 Permits**

- (1) An inspector may grant a permit authorising:
- (a) the entry to or exit from, or movement within, an infected place, infected vehicle, restricted area or control area, or
  - (b) the carrying out of any activity that is the subject of a control order.
- (2) The permit has effect for the period of time, and subject to any conditions, specified by the inspector in the permit. The inspector may specify such conditions as the inspector thinks fit, having regard to the nature and circumstances of the emergency animal disease and of the place, area or vehicle to which the permit applies.

- (2A) Without limiting the basis on which permits may be granted, a permit may be granted on a general basis so that it applies to a specified class of persons. Any such general permit may be granted by such means as may be approved by the Director-General.
- (3) Any inspector may revoke or vary a permit at any time by notice in writing to the holder of the permit. In the case of a permit that has been granted on a general basis to a specified class of persons, notice of the revocation or variation may be published on the Department's internet website.
- (4) The holder of a permit that has been revoked or varied must, on request by the inspector, immediately deliver the revoked permit to the inspector who revoked it or to a person nominated by that inspector.

Maximum penalty: 5 penalty units.

## **25 Restraint of persons**

An inspector may, if in the inspector's opinion it is necessary to do so, use reasonable force to restrain a person who is acting contrary to a requirement of this Part from so acting.

## **26 Interfering with fence or gate in declared area**

A person must not break down, damage or leave open a fence, gate or fastening:

- (a) that is used for confining any animal, or regulating or preventing the movement of any animal, and
- (b) that provides access to, or is within, a declared area.

Maximum penalty: 5 penalty units.

## **27 Other functions and liabilities not affected**

Nothing in this Part in any way limits or affects:

- (a) the functions of an inspector under this Act, or
- (b) the liability of any person for an offence under any other provision of this Act.

# **Part 3A Control of emergency animal pests**

## **Division 1 Duties**

### **27A Duty to notify**

A person:

- (a) who owns any premises on which the person suspects there is an emergency animal

pest, or

- (b) who owns, or is in charge of, or has in his or her possession or control, an animal that the person suspects is an emergency animal pest, or
- (c) who, in a professional capacity, is consulted in relation to an animal that the person suspects is an emergency animal pest, or in relation to land or premises on which the person suspects there is an emergency animal pest,

and who does not, as soon as possible after becoming aware of or suspecting the presence of the emergency animal pest, report it to an inspector by the quickest means of communication available to the person is guilty of an offence.

Maximum penalty: 200 penalty units.

## **27B Release of emergency animal pests**

- (1) A person must not:
  - (a) intentionally or recklessly, do or cause or permit the doing of an act that is likely to result in the spread of emergency animal pests on any land, or
  - (b) threaten to do an act or to cause or permit the doing of an act that is likely to result in the spread of emergency animal pests on any land.

Maximum penalty: 1,000 penalty units or imprisonment for 2 years, or both.

- (2) This section does not apply to a person who has the authority of the Director-General to be in possession of an emergency animal pest and who is acting in accordance with the regulations.

## **Division 2 Infested places**

### **27C Declaration of infested place**

- (1) If the Minister reasonably suspects any premises, place or area within the State to be infested with an emergency animal pest, the Minister may by order declare it to be an infested place.
- (2) The declaration must identify the classes or descriptions of animal products, fodder, fittings, soil, vehicles or other things that are affected by the declaration.
- (3) For the purposes of this section, a declaration may identify a class or description of things that are not animal products, fodder, fittings, soil or vehicles as affected by the declaration if those things are or could be infested with emergency animal pests, or could assist the spread of infestation of emergency animal pests.
- (4) Written notice of the declaration must be given to the owner or person in charge of or in apparent control of the premises, place or area to which the order relates.

### **27D Permit for entry or exit**

- (1) A person (other than an inspector) who:
- (a) enters or leaves any premises, place or area declared to be an infested place, or
  - (b) causes, permits or assists any other person to enter or leave any such premises, place or area, or
  - (c) brings, moves or takes, or allows any person to bring, move or take, any animal product, fodder, fitting, soil or other thing to which the relevant declaration applies into, within or out of any such premises, place or area, or
  - (d) causes, permits or assists any vehicle to enter or leave any premises, place or area declared to be an infested place,

is guilty of an offence unless the person is authorised to do so by a permit and the person complies with any conditions set out in the permit.

Maximum penalty: 400 penalty units or imprisonment for 12 months, or both.

- (2) Without limiting the powers of an inspector to attach conditions to a permit, a permit may be issued subject to the condition that the holder of the permit, or the animal product, fodder, fitting, soil, vehicle or other thing to which the permit relates:
- (a) must first be effectively disinfected to the satisfaction of the inspector and in a manner specified by the inspector before leaving or being taken out of the infested place, and
  - (b) must not go or be brought to any other premises or place where any specified animal products, fodder, fittings, soil or other things are located.

### **27E Entry and exit points**

- (1) Any movement of:
- (a) any vehicle affected by the relevant declaration into or out of an infested place, or
  - (b) any animal product, fodder, fittings, soil or other thing affected by the relevant declaration into or out of an infested place, or
  - (c) any person into or out of any such infested place,

must be made only through a point or points specified in a notice issued by an inspector to the person in charge, or in apparent control, of the infested place.

- (2) The inspector may cause the notice to be published in a local newspaper or on the Department's internet website, or both.
- (3) A person who knows or has reason to believe any premises, place or area to be an

infested place and who, in contravention of this section:

- (a) goes into or out of the infested place, or
- (b) moves any other person into or out of the infested place, or
- (c) moves any animal product, fodder, fitting, soil, vehicle or other thing affected by the relevant declaration into or out of the infested place,

is guilty of an offence.

Maximum penalty: 400 penalty units or imprisonment for 12 months, or both.

### **Division 3 Restricted areas**

#### **27F Declaration of restricted area**

- (1) If, in the opinion of the Minister, there is a possibility that any premises, place or area within the State may be or become infested with an emergency animal pest, the Minister may by order in writing declare the premises, place or area concerned to be a restricted area.
- (2) The declaration must identify the boundaries of the restricted area and the classes or descriptions of animal products, fodder, fittings, soil, vehicles or other things that are affected by it.
- (3) For the purposes of this section, a declaration may identify a class or description of things that are not animal products, fodder, fittings, soil or vehicles as affected by the declaration if those things are or could be infested with emergency animal pests, or could assist the spread of infestation of emergency animal pests.
- (4) Notice of an order declaring any premises, place or area to be a restricted area must be published:
  - (a) in the Gazette, and
  - (b) in a local newspaper or on the Department's internet website, or both.
- (5) An order of which notice has not been so published within 14 days after it was made is taken (unless it has already been revoked) to have been revoked at the end of that 14-day period.

#### **27G Permit for entry or exit**

- (1) A person who causes or permits any animal products, fodder, fittings, soil, vehicles or other things to which the relevant declaration applies to be moved into, within or out of a restricted area is guilty of an offence unless the person is authorised to do so by a permit and the person complies with any condition set out in the permit.

Maximum penalty: 400 penalty units or imprisonment for 12 months, or both.

- (2) Without limiting the powers of an inspector to attach conditions to a permit, a permit referred to in subsection (1) may be issued subject to the condition that the holder of the permit, or the animal product, fodder, fitting, soil, vehicle or other thing to which the permit relates, is effectively disinfected to the satisfaction of the inspector and in a manner specified by the inspector, before leaving or being taken out of the restricted area.

#### **27H Variation of boundaries of restricted areas including parts of roadways**

- (1) The boundaries of a restricted area as fixed by the relevant declaration may be varied, in so far as a restricted area includes any part of a roadway, by moving, in a manner appropriate to the new boundary, any sign placed pursuant to this Act as an indicator of the boundaries of the restricted area across the roadway.
- (2) The variation takes effect when the sign is moved to indicate the variation.

#### **27I Entry and exit points**

- (1) Any movement of any animal product, fodder, fittings, soil, vehicle or other thing affected by the relevant declaration into or out of a restricted area must be made only through a point or points specified in a notice issued by an inspector and published in a local newspaper or on the Department's internet website, or both.
- (2) A person who knows, or has reason to believe, that any premises, place or area has been constituted a restricted area and who moves any animal product, fodder, fittings, soil, vehicle or other thing affected by the relevant declaration into or out of the premises, place or area in contravention of this section is guilty of an offence.

Maximum penalty: 400 penalty units or imprisonment for 12 months, or both.

#### **27J Area restriction order**

- (1) The Minister may, by order published in the Gazette (an **area restriction order**), direct all or any specified persons or class of persons within a restricted area to take measures specified in the order for the purpose of controlling, eradicating or preventing the spread of an emergency animal pest.
- (2) An area restriction order may also authorise inspectors to take measures specified in the order within the restricted area for the purpose of controlling, eradicating or preventing the spread of an emergency animal pest.
- (3) An area restriction order must also be published in a local newspaper or on the Department's internet website, or both.
- (4) An area restriction order takes effect on publication and may do any of the following:

- (a) require or authorise premises, vehicles or things (including soil) to be disinfected,
  - (b) require or authorise inspectors to take measures specified in the order within the restricted area for the purpose of controlling, eradicating or preventing the spread of an emergency animal pest,
  - (c) require or authorise other measures to be taken which the Minister considers reasonably necessary in the circumstances.
- (5) A person who contravenes an area restriction order is guilty of an offence.

Maximum penalty: 400 penalty units or imprisonment for 12 months, or both.

## **Division 4 Control areas**

### **27K Declaration of control area**

- (1) The Minister may by order in writing declare any premises, place or area within the State to be a control area if, in the opinion of the Minister, this is reasonably necessary for the purpose of preventing the spread of an emergency animal pest.
- (2) The declaration must identify the boundaries of the control area.
- (3) Notice of an order declaring any premises, place or area to be a control area must be published:
  - (a) in the Gazette, and
  - (b) in a local newspaper or on the Department's internet website, or both.
- (4) An order of which notice has not been so published within 14 days after it was made is taken (unless it has already been revoked) to have been revoked at the end of that 14-day period.

### **27L Control orders**

- (1) The Minister may, with respect to the whole or a specified part of a control area, by order in writing (a **control order**):
  - (a) prohibit, regulate or control the movement of specified animal products, fodder, fittings, soil, vehicles or other things into, out of or within the control area or specified part of the area, or
  - (b) order all or any specified persons within the control area or specified part of the area to take such measures as the Minister thinks fit to contain or eradicate the emergency animal pests, or
  - (c) authorise inspectors to take measures specified in the order within the control area or specified part of the area for the purpose of controlling, eradicating or

preventing the spread of the emergency animal pests.

- (2) A person who contravenes a control order is guilty of an offence.

Maximum penalty: 200 penalty units or imprisonment for 6 months, or both.

- (3) A person does not commit an offence under subsection (2) of contravening a control order if the act constituting the contravention is authorised by a permit granted to the person.

- (4) An order made in accordance with subsection (1) (b) must specify:

- (a) the control area or the specified part of a control area to which the order relates, and
- (b) the persons, or the specified persons, to whom the order applies, and
- (c) the measures that those persons must take.

## **Division 5 General**

### **27M Permits**

- (1) An inspector may grant a permit authorising:

- (a) the entry to or exit from, or movement within, an infested place, restricted area or control area, or
- (b) the carrying out of any activity that is the subject of a control order.

- (2) The permit has effect for the period of time, and subject to any conditions, specified by the inspector in the permit. The inspector may specify such conditions as the inspector thinks fit, having regard to the nature and circumstances of the emergency animal pest and of the place or area to which the permit applies.

- (3) Without limiting the basis on which permits may be granted, a permit may be granted on a general basis so that it applies to a specified class of persons. Any such general permit may be granted by such means as may be approved by the Director-General.

- (4) Any inspector may revoke or vary a permit at any time by notice in writing to the holder of the permit. In the case of a permit that has been granted on a general basis to a specified class of persons, notice of the revocation or variation may be published on the Department's internet website.

- (5) The holder of a permit that has been revoked must, on request by the inspector, immediately deliver the revoked permit to the inspector who revoked it or to a person nominated by that inspector.

Maximum penalty: 5 penalty units.



## **27N Restraint of persons**

An inspector may, if in the inspector's opinion it is necessary to do so, use reasonable force to restrain a person who is acting contrary to a requirement of this Part from so acting.

## **27O Interfering with fence or gate in declared area**

A person must not break down, damage or leave open a fence, gate or fastening:

- (a) that is used for confining any animal, or regulating or preventing the movement of any animal, and
- (b) that provides access to, or is within, a declared area.

Maximum penalty: 5 penalty units.

## **27P Other functions and liabilities not affected**

Nothing in this Part in any way limits or affects:

- (a) the functions of an inspector under this Act, or
- (b) the liability of any person for an offence under any other provision of this Act.

# **Part 4 Other powers of the Minister**

## **Division 1 Border security**

### **28 Entry of animals etc from outside State**

- (1) If the Minister reasonably suspects any premises, place or area outside the State to be infected with an emergency animal disease, the Minister may by order in writing (an **importation order**) absolutely prohibit, or impose conditions on, the entry or importation into the State of:
  - (a) animals, animal products, fodder, fittings, soil or other things identified by the order, or
  - (b) vehicles of a type usually used for the transportation of any such animals, animal products, fodder, fittings, soil or other things.
- (1A) If the Minister reasonably suspects any premises, place or area outside the State to be infested with an emergency animal pest, the Minister may by order in writing (an **importation order**) absolutely prohibit, or impose conditions on, the entry or importation into the State of emergency animal pests, animals, animal products, fodder, fittings, soil, vehicles or other things identified by the order.
- (2) Without limiting the nature or extent of conditions that may be imposed by an importation order, it may prohibit the entry or importation into the State of any

description of animals, animal products, fodder, fittings, soil, vehicles or other things, and may specify tests or treatments to be applied to those animals, animal products, fodder, fittings, vehicles and other things or to that soil.

- (3) For the purposes of this section, an order may identify a class or description of things that are not animals, animal products, fodder, fittings, soil or vehicles if those things are or could be infected with an emergency animal disease or infested with an emergency animal pest, or could assist the spread of infection of an emergency animal disease or the spread of infestation of an emergency animal pest.

### **29 Duration of importation order**

Unless sooner revoked, an importation order remains in force for a period of 30 days (or such shorter period as may be specified in the order). At the discretion of the Minister, however, it may from time to time be extended by notice published in the Gazette for further periods, in each case not exceeding 30 days.

### **30 Notification of importation order**

Notice of an importation order is to be published in the Gazette as soon as practicable after the making of the order.

### **31 Contravention of importation order**

A person who causes, permits or assists any animal, animal product, fodder, fitting, soil, vehicle or other thing to enter or be imported into the State, knowing that in doing so the person contravenes an importation order, is guilty of an offence.

Maximum penalty: 200 penalty units or imprisonment for 6 months, or both.

## **Division 2 Particular premises, animals etc**

### **32 Destruction of animals, premises and other property**

- (1) The Minister may by order in writing (a **destruction order**) require the destruction of:
- (a) any animal which is infected, or is reasonably suspected by the Minister to be infected, with an emergency animal disease, or
  - (b) any premises (other than a dwelling) or any animal product, fodder, fittings, vehicle or other thing which the Minister reasonably suspects to be infected with an emergency animal disease and which cannot be effectively disinfected, or
  - (c) any animal that is in a declared area, but only if the Minister is satisfied that it is reasonably necessary to do so in order to prevent the spread of an emergency animal disease.
- (1A) The Minister may by order in writing (a **destruction order**) require the destruction of:

- (a) any emergency animal pest, or
  - (b) any premises (other than a dwelling) or any animal, animal product, fodder, fittings or other thing which the Minister reasonably suspects to be infested with an emergency animal pest and which cannot be effectively disinfected.
- (2) A destruction order may specify any one or more of the following matters:
- (a) the method by which an emergency animal pest or other animal is to be destroyed,
  - (b) the method of disposal of the carcass of the emergency animal pest or other animal,
  - (c) the method of destruction of any premises, animal products, fodder, fittings, vehicles or other things and the disposal of any remains of those premises, animal products, fodder, fittings, vehicles or other things.
- (3) For the purposes of subsection (1) (c), it does not matter whether the animal is infected with an emergency animal disease or not.
- (4) The Minister must not order the destruction of an animal that is protected fauna within the meaning of the [National Parks and Wildlife Act 1974](#) unless the Minister has consulted the Minister administering the [National Parks and Wildlife Act 1974](#) about the order.

### **33 Notice of destruction order**

A copy of a destruction order must be given before execution of the order to the owner or person in charge of the emergency animal pest or other animal, premises, vehicle or other property, unless:

- (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
- (b) the Minister considers that, in the circumstances, the order must be carried out without prior notice to the owner or person in charge.

### **34 Enforcement of destruction order**

- (1) A destruction order may authorise an inspector to destroy or cause the destruction of any emergency animal pest or other animal, premises, vehicle or other property specified in the order.
- (2) The owner or person in charge (if any) of an animal, premises, vehicle or other property that is the subject of a destruction order must, on request by an inspector, give any assistance the inspector may reasonably require in carrying out the order.

- (3) A person who fails or refuses to assist an inspector as required by this section is guilty of an offence, but only if it is proved that, at the material time, the person was informed by the inspector that failure or refusal to comply with the request constituted an offence.

Maximum penalty: 200 penalty units or imprisonment for 6 months, or both.

## Part 5 Powers of inspectors

### Division 1 Local quarantines

#### 35 Quarantine of places and vehicles

- (1) An inspector may by order in writing (a **quarantine order**) quarantine and keep secure any premises, place or vehicle, or part of any premises or place, so as to prohibit or restrict the movement of any animal, animal product, fodder, fitting, soil or other thing on to, within or out of the premises, place or vehicle, if the inspector:
- (a) reasonably suspects the premises, place or vehicle concerned to be infected with an emergency animal disease, and
  - (b) believes on reasonable grounds that, in order to prevent the spread of the suspected emergency animal disease, it is necessary to make the order.
- (1AA) An inspector may by order in writing (a **quarantine order**) quarantine and keep secure any premises or place, or part of any premises or place, so as to prohibit or restrict the movement of any suspected emergency animal pest, animal product, fodder, fitting, soil, vehicle or other thing on to, within or out of the premises or place, if the inspector:
- (a) reasonably suspects the premises or place concerned to be infested with an emergency animal pest, and
  - (b) believes on reasonable grounds that, in order to prevent the spread of the suspected emergency animal pest, it is necessary to make the order.
- (1A) A quarantine order must identify the classes or descriptions of animals, animal products, fodder, fittings, soil or other thing to which the order relates.
- (1B) For the purposes of this section, a quarantine order may identify a class or description of things that are not animals, animal products, fodder, fittings, soil or vehicles if those things are or could be infected with an emergency animal disease or infested with an emergency animal pest, or could assist the spread of infection of an emergency animal disease or infestation of an emergency animal pest.
- (2) Where a quarantine order affects any premises or place, it may prohibit or restrict the movement of any vehicle on to, within or out of the premises or place.

### **36 Duration of quarantine order**

- (1) A quarantine order relating to an emergency animal disease is in force only:
  - (a) for a period of 40 days from the giving of notice of the order, or
  - (b) for such shorter or longer period as the Chief Veterinary Officer determines.
- (2) A quarantine order relating to an emergency animal pest is in force only:
  - (a) for a period of 40 days from the giving of notice of the order, or
  - (b) for such shorter or longer period as the Director-General determines.

### **37 Notice of quarantine order**

Written notice of a quarantine order, or of any determination of the Chief Veterinary Officer under this Division, must be given to the owner or person in charge or in apparent control of the premises, place or vehicle to which the order relates.

### **38 Contravention of quarantine order**

A person who contravenes a quarantine order is guilty of an offence.

Maximum penalty: 200 penalty units or imprisonment for 6 months, or both.

### **38A Undertaking in certain cases**

- (1) An inspector may, instead of making a quarantine order in respect of any premises, place or vehicle, accept an undertaking given by the owner, or person in charge or in apparent control of the premises, place or vehicle (a **quarantine undertaking**), to comply with any requirements specified in the undertaking.
- (2) The undertaking is to be in a form acceptable to the inspector.
- (3) The requirements that may be specified include requirements relating to the quarantining or security of any premises, place or vehicle so as to prohibit or restrict the movement of any animal, animal product, fodder, fitting, soil or other thing on to, within or out of the premises, place or vehicle.
- (4) A person giving a quarantine undertaking in accordance with this section must comply with each requirement specified in the undertaking.

Maximum penalty: 200 penalty units or imprisonment for 6 months.

- (5) An inspector may release a person from a quarantine undertaking and on release subsection (4) ceases to have effect.
- (6) A quarantine undertaking ceases to have effect:
  - (a) 40 days after the undertaking has been given, or

- (b) at the end of such shorter or longer period as the Chief Veterinary Officer determines.

## **Division 2 Disinfection orders**

### **39 Disinfection of places and vehicles**

- (1) An inspector may by order in writing (a ***disinfection order***) direct:

- (a) the owner or person in charge or in apparent control of any premises, place or vehicle to disinfect:
  - (i) themselves, or anything on or about them, and
  - (ii) the premises, place or vehicle (along with any fodder, fitting, soil or other thing within the premises, place or vehicle and any vehicle within the premises or place), and
- (b) any other person entering or leaving any premises, place or vehicle to disinfect themselves, or anything on or about them,

if the inspector reasonably suspects the person, premises, place or vehicle concerned is infected with an emergency animal disease.

- (1A) An inspector may by order in writing (a ***disinfection order***) direct:

- (a) the owner or person in charge or in apparent control of any premises or place to disinfect the premises or place (along with any fodder, fitting, soil or other thing within the premises or place and any vehicle within the premises or place), and
- (b) any other person entering or leaving any premises or place to disinfect any vehicle or other thing on or about them,

if the inspector reasonably suspects the premises or place is infested with an emergency animal pest.

- (2) A disinfection order:

- (a) may specify the time within which the owner or person in charge or in apparent control or other person specified in the disinfection order is required to comply with the order, and
- (b) may specify the manner in which the disinfection is to be carried out.

### **40 Contravention of disinfection order**

A person who fails to comply with a disinfection order is guilty of an offence.

Maximum penalty: 200 penalty units or imprisonment for 6 months, or both.

## **Division 3 Power of seizure**

### **41 Seizure for unauthorised movements**

An inspector may seize and impound any animal, animal product, fodder, fitting, soil or other thing, or any vehicle:

- (a) that is placed, exposed, moved, imported or sold contrary to a prohibition or restriction imposed by or under this Act or a requirement specified in a quarantine undertaking given in accordance with section 38A, or
- (b) which the inspector reasonably suspects to be infected with an emergency animal disease or infested with an emergency animal pest, or
- (c) which is astray in or near a declared area or at or near a place where there has been an outbreak of any emergency animal disease or there are emergency animal pests.

### **42 Seized animals and property**

- (1) If, in the opinion of an inspector, it is necessary to do so in order to avoid risk to life or property in connection with an emergency animal disease or emergency animal pest, the inspector may, with the approval of the Chief Veterinary Officer, destroy any animal or other thing seized under this Division.
- (2) If it is not thought necessary to destroy the animal or other thing, it may be released by an inspector to anyone appearing to be lawfully entitled to it. At the time of release, the inspector may by order in writing require measures to be taken to eliminate any risk associated with it. Release may also be conditional on payment of any charges incurred, in accordance with the regulations, in connection with its impounding or other measures taken by an inspector.

## **Division 4 Power to obtain information**

### **43 Verbal and documentary information**

- (1) For the purpose of controlling, eradicating or preventing the spread of an emergency animal disease or emergency animal pest, an inspector may do any of the following:
  - (a) require a person to answer any question that the inspector reasonably believes may provide information bearing on the control or eradication of the disease or pest or the prevention of the spread of the disease or pest,
  - (b) require a person to state the person's name and place of residence,
  - (c) require a person to produce any record or other document,
  - (d) inspect and take extracts from or copies of any record or other document.
- (2) Such a requirement is not duly made unless, at the time of making the requirement,

the person of whom the requirement is made has been informed by the inspector that a refusal or failure to furnish the answer, record or document, as the case may be, constitutes an offence.

- (3) A person cannot decline to answer any question that the person has been required to answer, or to produce any record or other document that the person has been required to produce, on the ground that the answer, record or document might tend to incriminate the person. If, however, before answering the question or producing the record or document, the person claims that the answer, record or document might tend to incriminate the person, then neither the question nor the answer, nor any record or document produced, is admissible in evidence against the person in any criminal proceedings other than proceedings relating to:
- (a) the refusal or failure to answer any question or produce any record or document, or
  - (b) the furnishing of any answer, record or document that is false or misleading.

#### **44 Offences in connection with information**

- (1) A person who refuses or who, without reasonable excuse, fails to answer on demand any question or to furnish on demand any record or document as required under this Division is guilty of an offence.

Maximum penalty: 200 penalty units or imprisonment for 6 months, or both.

- (2) A person who, having produced a record or document, prevents or hinders an inspector from inspecting, or taking extracts from or copies of, any record or document is guilty of an offence.

Maximum penalty: 200 penalty units or imprisonment for 6 months, or both.

- (3) A person who, in response to a requirement under this Division, furnishes any answer, or any record or document, knowing that it is false or misleading in a material particular is guilty of an offence.

Maximum penalty: 200 penalty units or imprisonment for 6 months, or both.

### **Division 5 Miscellaneous powers**

#### **45 Search and entry and other powers**

- (1) For the purpose of exercising any function conferred on an inspector by or under this Act, an inspector, with or without assistants, may do any of the following:
- (a) enter and search any premises or place other than a dwelling,
  - (b) with the consent of the occupier or in pursuance of a warrant, enter and search any dwelling,



- (c) stop, board, enter, search or detain any vehicle,
  - (d) break open and search any box, container, package or receptacle (including any place that could be used as a receptacle),
  - (e) muster, inspect, count, examine, mark for identification, test, treat, disinfect or take samples from any animal, animal product, fodder, fitting or soil or any item or receptacle,
  - (f) stop the movement or order the movement or mustering of any animal or animal product, for the purpose of any inspection, examination, test, treatment, disinfection or the taking of samples,
  - (g) remove or cause to be removed to another place any animal, animal product, fodder, fitting, soil or vehicle or any item or receptacle,
  - (h) inspect, examine, test, disinfect, fumigate, take samples from or take photographs or video recordings of any premises, place, area, fodder, fitting, soil, vehicle or other thing,
  - (i) search for, track, mark for identification, test, treat or destroy any emergency animal pest or free-living animal.
- (2) Without limiting subsection (1), an inspector may do anything referred to in that subsection in respect of any premises or place that has been the subject of a quarantine order, a quarantine undertaking, a declaration of an infected place, a declaration of a control area or a declaration of a restricted area within the preceding 2 years.

#### **46 Requiring assistance**

- (1) An inspector may by notice in writing direct:
- (a) an owner or person in charge or in apparent control of any premises, place, area, animal or vehicle that the inspector reasonably suspects to be infected with an emergency animal disease or infested with an emergency animal pest, or
  - (b) any other person on or in any such premises, place, area or vehicle,
- to give such reasonable assistance specified in the notice as the inspector requires for the purpose of exercising the inspector's functions under this Act.
- (2) Such a notice may, for example, direct the person to whom it is addressed to do any of the following:
- (a) treat any animal belonging to or under the control or in the charge of that person,
  - (b) muster any animal belonging to or under the control or in the charge of that person,

- (c) confine, within an escape-proof enclosure or cage approved by the inspector, any animal belonging to or under the control or in the charge of that person,
  - (d) repair any fence, cage, netting, gate, yard, enclosure or container to render it escape-proof to the satisfaction of the inspector,
  - (e) provide such facilities, including yards and crushes, as the inspector requires to inspect, examine, treat or take samples from any animal,
  - (f) muzzle any dog,
  - (g) disinfect himself or herself in a manner specified by the inspector before leaving any premises, place, area or vehicle,
  - (h) disinfect any premises, place, area or vehicle.
- (3) A notice under this section:
- (a) must state the time within which the person to whom it is addressed is required to comply with the direction, and
  - (b) may specify the manner in which the direction is to be carried out.
- (4) A person who neglects or fails to comply with a direction given under this section is guilty of an offence.

Maximum penalty: 200 penalty units or imprisonment for 6 months, or both.

#### **47 Request for assistance**

An inspector who is not a police officer may request the assistance of any police officer, if the inspector has reasonable cause to believe that the exercise of the inspector's functions under this Act will be obstructed.

Any inspector may request the assistance of any person the inspector believes to be capable of providing assistance in the exercise of the inspector's functions under this Act.

### **Division 6 Ancillary matters**

#### **48 Search warrant**

- (1) An inspector may make application to an authorised officer (within the meaning of the *Law Enforcement (Powers and Responsibilities) Act 2002*) for a warrant authorising the inspector to enter a specified dwelling or to enter any premises, place, area or vehicle to which the inspector has been, or is likely to be, refused admission.
- (2) If the authorised officer is satisfied that it is reasonably necessary that the inspector should have access to the dwelling, premises, place, area or vehicle concerned for the purpose of exercising the inspector's functions under this Act, the authorised officer

may grant a warrant authorising the inspector, with such assistants as may be thought necessary, to enter for that purpose.

- (3) Division 4 of Part 5 of the *Law Enforcement (Powers and Responsibilities) Act 2002* applies to a warrant granted under this section.

#### **49 Production of identity card**

- (1) If, pursuant to this Act, an inspector (other than a police officer wearing a police uniform):

- (a) enters any premises, place or area, or
- (b) boards, enters, stops or detains any vehicle,

an identity card must be produced, if requested, for inspection by the person in charge or in apparent control of the premises, place or vehicle.

- (2) In this section, **identity card** means a document evidencing the inspector's appointment under this Act or the *Stock Diseases Act 1923* as an inspector or a document evidencing that he or she is a police officer.

#### **50 Obstruction etc**

A person who:

- (a) obstructs, hinders, assaults, bribes or threatens an inspector in the exercise of the inspector's functions under this Act, or
- (b) obstructs, hinders, assaults, bribes or threatens a person assisting any such inspector, or
- (c) without lawful excuse, prevents or attempts to prevent a person from giving information to or being questioned by an inspector, or
- (d) threatens any person who has been questioned by, or who has furnished information or documents to, an inspector, or
- (e) impersonates an inspector,

is guilty of an offence.

Maximum penalty: 200 penalty units or imprisonment for 6 months, or both.

## **Part 6 Emergency Animal Diseases and Pests Compensation and Eradication Fund**

### **51 Establishment of the Fund**

The Treasurer is to establish and maintain in the Treasury an Emergency Animal Diseases

and Pests Compensation and Eradication Fund consisting of one account or, if the Treasurer so directs, more than one separate and distinct account for specific emergency animal diseases or emergency animal pests.

## 52 Payments to the Fund

The following are payable to the credit of the Fund:

- (a) money payable to the State of New South Wales by the Commonwealth or any State or Territory of the Commonwealth in accordance with any arrangement made (whether before or after the commencement of this Act) by the Commonwealth or any State or Territory of the Commonwealth for controlling, eradicating and preventing the spread of emergency animal diseases or emergency animal pests,
- (b) any gifts made for payment into the Fund,
- (c) money appropriated by Parliament for the purposes of this Act,
- (d) any money from time to time advanced by the Treasurer for payment into the Fund.

## 53 Purposes of the Fund

The Fund may be applied for any of the following:

- (a) the payment of expenses directly connected with controlling, eradicating or preventing the spread of any emergency animal disease or emergency animal pest except the normal salaries or wages of public servants who are or would be employed irrespective of any outbreak of an emergency animal disease or emergency animal pest,
- (b) the payment of compensation payable under this Act and all costs and expenses incidental to determining the compensation payable,
- (c) the payment of expenses incidental to the administration of the Fund and the distribution of surplus money in the Fund,
- (d) the repayment to the Treasurer of any money advanced to the Fund by the Treasurer.

## Part 7 Compensation

### 54 Declaration of compensable diseases

- (1) The Minister may, by order published in the Gazette:
  - (a) declare an emergency animal disease to be a disease to which this Part applies, and
  - (b) declare any such disease to be a **class A compensable disease** or a **class B compensable disease** for the purposes of this Part.

(2) Any such order, and any variation or rescission of any such order, take effect when published in the Gazette.

(3) In this Part:

**authorised inspector** means an inspector who is authorised by the Chief Veterinary Officer for the purposes of this Part.

**property** means any premises, animal products, fodder, fittings and vehicles.

## 55 Compensation payable to owners of animals and property

(1) Compensation is payable under this Part:

(a) to the owner of any domestic animal or property that has been destroyed in accordance with this Act for the purpose of controlling, eradicating or preventing the spread of an emergency animal disease to which this Part applies, and

(b) to the owner of any domestic animal that:

(i) has been reported to the Director-General or an inspector as being affected by, or as having died of, an emergency animal disease to which this Part applies, and

(ii) is certified by an authorised inspector as having died of a class A compensable disease, and

(c) to the owner of any domestic animal that:

(i) has been reported to the Director-General or an inspector as having died of an emergency animal disease to which this Part applies, and

(ii) is certified by an authorised inspector as having died of a class B compensable disease.

(2) However, compensation is payable to the owner of a domestic animal under subsection (1) (c) only if:

(a) the Director-General is satisfied there has been no unreasonable delay in reporting the death of the animal, and

(b) the Chief Veterinary Officer certifies that the destruction of the animal would have been required under this Act had the animal not died.

## 56 The “relevant time” for evaluation of compensation

(1) The amount of compensation payable is the market value of the domestic animal or property immediately before the **relevant time** as indicated in this section.

(2) In the case of destroyed property that is not an animal, the relevant time is the time

of destruction.

(3) In the case of an animal that died or was destroyed on account of a disease to which this Part applies, the relevant time is:

(a) the time of its destruction, or

(b) the time when the Director-General or an inspector was notified that it was affected by, or died of, the disease,

whichever time is earlier.

### **57 Market value to take no account of disease**

In assessing the market value of an animal or other property for the purposes of this Part, the animal or thing concerned is to be regarded as not suffering from or affected by the disease concerned.

### **58 Local markets**

In assessing the market value of an animal or animal product for the purposes of this Part, regard must be had to the value of comparable animals or animal products at the nearest most recent markets selling such animals or animal products, whether those markets are in this State or in any other State or Territory of the Commonwealth.

### **59 Settlement**

(1) The market value of a domestic animal or other property may be determined by agreement between the owner of the animal or property and an authorised inspector.

(2) In default of agreement, the market value may be determined by a competent and impartial person jointly nominated for the purpose by the Minister and the owner.

### **60 Other losses excluded**

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.

### **61 Claims**

A claim for compensation under this Part in respect of any domestic animal or property which has been destroyed or any domestic animal that has been certified by an inspector as having died of an emergency animal disease:

(a) must contain the particulars prescribed by the regulations, and

(b) must be lodged in the manner so prescribed within 90 days after the destruction or death or within such further time as the Minister may in a particular case allow.

## **62 Recovery of compensation**

Disputed claims for compensation payable under this Part may be recovered by action against the Crown in any court of competent jurisdiction.

## **63 Reduction of amount claimed**

If a claim for compensation under this Part arising out of the destruction of any domestic animal or property, or the death of any animal, as a result of an outbreak of an emergency animal disease is lodged by an owner who has been convicted of an offence in this State, the Commonwealth or any State or Territory of the Commonwealth which has caused or contributed to:

- (a) the spread of that emergency animal disease, or
- (b) the destruction or death of any domestic animal in respect of which the claim is lodged, or
- (c) the destruction of any property in respect of which the claim is lodged,

the Minister may by instrument in writing direct that the compensation otherwise payable under this Part, or such part of it as the Minister thinks fit, not be paid.

## **64 Disputed claims**

If any doubt or dispute arises as to the right or entitlement of a person to receive compensation, the Minister may cause the amount of the compensation payable, or a part of that amount, to be retained in the Fund until the person who is entitled to compensation has been established to the Minister's satisfaction.

## **65 False claims**

Any person who lodges a claim for compensation knowing that it is false or misleading, 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.

Maximum penalty: 50 penalty units or imprisonment for 3 months, or both.

# **Part 8 Administration**

## **66 Appointment of Chief Veterinary Officer**

- (1) The Director-General 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.
- (2) On such terms and in such circumstances as may be indicated in the instrument of appointment of any Deputy Chief Veterinary Officer, that Deputy may exercise the

functions of the Chief Veterinary Officer.

### **67 Delegation**

- (1) The Minister may, either generally or as otherwise provided by the instrument of delegation in writing, delegate all or any of the functions of the Minister under this Act (other than this power of delegation) to any of the following persons:
  - (a) the Director-General,
  - (b) the Chief Veterinary Officer,
  - (c) a Deputy Chief Veterinary Officer,
  - (d) a member of staff of the Department,
  - (e) a person prescribed by the regulations.
- (2) The Director-General may delegate the exercise of any function of the Director-General under this Act (other than this power of delegation) to:
  - (a) any member of staff of the Department, or
  - (b) any person, or any class of persons, authorised for the purposes of this section by the regulations.

### **68 Appointment of inspectors**

The Chief Veterinary Officer may by instrument in writing appoint a person, or persons included in a class of persons, to be an inspector or inspectors for the purpose of the exercise by that person or those persons of the functions of an inspector under this Act or of such of those functions as are specified in the instrument.

### **69 Identity cards**

- (1) The Chief Veterinary Officer is to issue to each inspector appointed under this Act an identity card in a form approved by the Chief Veterinary Officer.
- (2) A person in possession of an identity card issued to the person under this section and who ceases to be an inspector must, as soon as practicable, return the identity card to the Chief Veterinary Officer or a person nominated by the Chief Veterinary Officer.
- (3) A person who contravenes subsection (2) is guilty of an offence.

Maximum penalty: 5 penalty units.

### **69A Fees for services**

- (1) A fee of such amount as may be prescribed by the regulations may be charged for any service provided under this Act or the regulations, including for the following:



- (a) the granting of permits (other than a permit authorising the movement of any person, animal or other thing from one part of a property to another part of the same property),
  - (b) the granting of authorities by the Chief Veterinary Officer under section 9 (2),
  - (c) the issuing of certificates by the Chief Veterinary Officer or an inspector for the purposes of Part 7.
- (2) Any such fee payable under this section may be recovered by the Crown as a debt in a court of competent jurisdiction.
- (3) The regulations may make provision for or with respect to the payment of fees under this section, including the waiver or refund of any such fee or the payment of a fee by instalments.

## **Part 9 Miscellaneous**

### **70 Reasonable suspicion of infection**

- (1) For the purposes of this Act, an animal, place or thing may reasonably be suspected of being infected with an emergency animal disease if there is reason to think that an animal disease agent is present in or on the animal, place or thing.
- (2) It is not necessary, in order to form a reasonable suspicion that an animal is infected with an emergency animal disease, for the animal to be exhibiting signs of the disease.
- (3) An animal or thing may, for the purposes of this Act, be reasonably suspected of being infected with an emergency animal 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 infected with an emergency animal disease.
- (4) This section does not prejudice any other evidence or consideration by which an inspector or other person might reasonably suspect that an animal, place or thing is infected with an emergency animal disease.

### **70AA Reasonable suspicion of emergency animal pest infestation**

- (1) For the purposes of this Act, an animal, place or thing may reasonably be suspected of being infested with an emergency animal pest if there is reason to think:
  - (a) that an emergency animal pest is present in or on the animal, place or thing, or
  - (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 an emergency animal pest was present in or on that other place.

- (2) This section does not prejudice any other evidence or consideration by which an inspector or other person might reasonably suspect that an animal, place or thing is infested with an emergency animal pest.

#### **70A False or misleading statements**

A person must not:

- (a) in any application for a permit or other authorisation under this Act or the regulations, or
- (b) in complying with any requirement to provide information to a person engaged in the administration of this Act,

make any statement that the person knows, or could reasonably be expected to know, is false or misleading in a material respect.

Maximum penalty: 200 penalty units or imprisonment for 6 months, or both.

#### **Note—**

Making a false claim for compensation under Part 7 of this Act is also an offence—see section 65.

#### **71 Proceedings for offences**

- (1) Proceedings for an offence under this Act or the regulations are to be dealt with summarily:
  - (a) before the Local Court, or
  - (b) before the Supreme Court in its summary jurisdiction.
- (2) Any such proceedings must be commenced not later than 2 years from when the offence was alleged to have been committed.
- (3) If proceedings are brought in the Local Court, the maximum monetary penalty that the Court may impose for the offence is 100 penalty units or the maximum monetary penalty provided for the offence by this Act or the regulations, whichever is the lesser.

#### **71A Penalty notices**

- (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 under this Act or the regulations, being an offence prescribed by the regulations as a penalty notice offence.
- (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.

- (3) A penalty notice may be served personally or by post.
- (4) 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.
- (5) 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.
- (6) The regulations may:
  - (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and
  - (b) prescribe the amount of penalty payable for the offence if dealt with under this section, and
  - (c) prescribe different amounts of penalties for different offences or classes of offences.
- (7) 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.
- (8) However, subsection (7) does not authorise the amount of a penalty prescribed under this section for any offence to exceed 10 penalty units.
- (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.
- (10) In this section, **authorised officer** means:
  - (a) a police officer, or
  - (b) a person of a class prescribed by the regulations as a class of person who may issue penalty notices under this section.

## **72 Offences by corporations**

- (1) If a corporation is convicted of an offence against this Act or the regulations, the court deciding on a penalty for the offence may, at its discretion, impose a penalty that is not more than 5 times the penalty provided by this Act (apart from this section) for the offence.
- (2) This section does not authorise the imposition by the Local Court of a penalty exceeding 100 penalty units.

## **73 Offences by officers of corporations**

- (1) If a corporation contravenes a provision of this Act or the regulations, each officer of

the corporation is taken to have contravened the provision if the officer knowingly authorised or permitted the contravention.

- (1A) Subsection (1) does not apply in respect of a contravention of section 24 (4).
- (2) An officer of a corporation may be proceeded against and convicted under a provision pursuant to this section whether or not the corporation has been proceeded against or convicted under the provision.
- (3) Nothing in this section affects a liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.
- (4) In this section, **officer** means a director of the corporation or a person who is otherwise concerned in its management.

### **73A Service of documents**

- (1) A document that is authorised or required by this Act or the regulations to be given to or served on any person may be given or served by:
  - (a) in the case of a natural person:
    - (i) delivering it to the person personally, or
    - (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
    - (iii) sending it by facsimile transmission to the facsimile number of the person, or
  - (b) in the case of a body corporate:
    - (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
    - (ii) sending it by facsimile transmission to the facsimile number of the body corporate.
- (2) A document that is required or permitted to be given to or served on the occupier of any particular premises may, if addressed to the occupier of the premises (either by name or as the occupier), be given or served:
  - (a) by delivering the document or a true copy of it to some person on those premises who is apparently over the age of 16 years, or
  - (b) if there is no person on those premises who can be given or served with the

document, by fixing the document or copy to some conspicuous part of the premises.

(3) 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 given or served on a person in any other manner.

(4) In this section:

**occupier** of premises includes a person in charge or in apparent control of the premises.

**premises** includes place, area or vehicle.

#### **74 Non-compliance with order or undertaking**

(1) If a person fails for any reason to comply with an order of the Minister or an inspector that is lawfully given to the person under this Act, an inspector may cause the direction given by the order to be carried out.

(1A) If a person fails for any reason to comply with a requirement specified in an undertaking given in accordance with section 38A, an inspector may cause the requirement given in the undertaking to be carried out.

(2) All reasonable costs and expenses incurred by an inspector as a result of the failure of any person to comply with any such order or undertaking may be recovered by the Minister from:

(a) the person to whom the order was given or who gave the undertaking, or

(b) any other person who was responsible for that person's failure to comply with the order or undertaking,

as a debt due and owing to the Crown in any court of competent jurisdiction.

#### **75 Protection of Minister, inspectors and others**

(1) Nothing done or omitted to be done by the Minister, an inspector or any other person in good faith in the exercise or purported exercise of any function conferred by or under this Act subjects the Minister, inspector or other person to any personal liability.

(2) This section extends to apply to anything done or omitted to be done by a person who is requested by an inspector to provide assistance to that inspector in the exercise or purported exercise of any function conferred on the inspector, as if the thing were done or omitted to be done by the inspector.

#### **75A Exclusion of personal liability for information required to be provided under this Act**

(1) If a person is required under this Act to provide any information, the provision of that

information by the person does not subject the person personally to any action, liability, claim or demand.

- (2) Without limiting subsection (1), a person is required to provide information under this Act if:
  - (a) the person is required to answer a question put to the person under this Act, or
  - (b) the person is required to give a notice or other document under this Act, or
  - (c) the person is required to produce a record or other document under this Act.
- (3) Nothing in this section affects the criminal liability of any person under this Act or any other Act or law.
- (4) This section extends to any information that a person was required to provide under this Act that was provided before the commencement of this section, but does not extend to proceedings in respect of the provision of such information that were brought before that commencement.

## **76 Protection of control programs**

- (1) The Minister may by order in writing certify that:
  - (a) an outbreak of an emergency animal disease or an incursion of an emergency animal pest exists in any part of New South Wales, or
  - (b) an outbreak of an emergency animal disease or an incursion of an emergency animal pest exists in any other part of Australia and it is necessary or expedient to take action or to make any declaration or authorisation under this Act to prevent, or reduce the risk of, the spread of the disease or pest to New South Wales.
- (2) When such an order has been made, no proceedings for an injunction, or for any order in the nature of a prerogative writ or of any other kind may be instituted or continued in any court against the Minister, an inspector or any other person that would stop, prevent or restrain the Minister, inspector or other person from taking or purporting to take any action or making any declaration or authorisation under this Act in relation to or in consequence of an outbreak or suspected outbreak of an emergency animal disease or an incursion of an emergency animal pest whether in New South Wales or any other part of Australia (as referred to in an order under subsection (1) (b)).
- (3) An order under this section:
  - (a) comes into force on the date it is signed, and
  - (b) must be notified in the Gazette within 5 days after that date.
- (4) Nothing in this section prevents the institution or continuation in any court of any action or proceedings to recover damages in respect of any loss incurred or damage

suffered as a result of any act or omission in the negligent exercise or purported exercise by any person of a function conferred by or under this Act.

## **77 Posting of signs**

- (1) An inspector may place signs, in a form approved by the Minister:
  - (a) at any place at or near the boundary of any declared area, to indicate the boundaries of the area or any restriction or prohibition relating to the area, or
  - (b) at any border of the State, to indicate that border, or
  - (c) at any place thought appropriate, to indicate the effect of any order made or any quarantine undertaking given under this Act, or
  - (d) along roadways, to indicate that traffic should stop.
- (2) The driver or person in charge of a vehicle approaching a stop-sign placed pursuant to this section must stop the vehicle and keep it stationary for the purpose of enabling an inspector to exercise any of the functions conferred by or under this Act on an inspector.
- (3) Any driver or person who wilfully contravenes subsection (2), or who damages, defaces, removes or interferes with any sign placed pursuant to this section, is guilty of an offence.

Maximum penalty: 100 penalty units.

## **78 Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, prescribing matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) In particular, the regulations may make provision for or with respect to:
  - (a) the procedures for the valuation of domesticated animals or property, and
  - (b) the functions of particular inspectors or other persons engaged in the administration of this Act, and
  - (c) requiring persons to keep records relating to matter relevant to the operation of this Act, and
  - (d) the form of documents prepared for the purposes of this Act, and
  - (e) conditional or unconditional exemption of persons from provisions of this Act or the regulations.
- (3) The regulations may create offences punishable by penalties not exceeding 50

penalty units.

## **79, 80 (Repealed)**

## **81 Savings and transitional provisions**

Schedule 1 has effect.

## **82 Notes in text**

Notes included in this Act are explanatory notes and do not form part of this Act.

## **Schedule 1 Savings and transitional provisions**

(Section 81)

### **Part 1 Preliminary**

#### **1 Regulations**

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

*Exotic Diseases of Animals Amendment Act 2008*

*Primary Industries Legislation Amendment (Biosecurity) Act 2012*

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

### **Part 2 Provisions consequent on enactment of **Exotic Diseases of Animals Amendment Act 2008****

#### **2 Definition**

In this Part:

**amending Act** means the *Exotic Diseases of Animals Amendment Act 2008*.



### 3 Saving of declared exotic diseases

Any disease that, immediately before the commencement of the amending Act, was declared to be an exotic disease for the purposes of this Act is taken to be an emergency animal disease declared by order under section 6A (as substituted by the amending Act).

### 4 References to exotic diseases

A reference in any Act (other than this Act) or in any instrument made under any Act to an exotic disease within the meaning of this Act is to be construed as a reference to an emergency animal disease.

### 5 Existing orders under Part 7

Any order made under section 54 and in force immediately before the commencement of the amending Act is taken to be an order in force under that section (as amended by the amending Act).

### 6 Continuity of Fund

The Emergency Animal Diseases Compensation and Eradication Fund is a continuation of the Exotic Diseases Compensation and Eradication Fund operating under this Act immediately before the commencement of the amending Act.

### 7 General savings provision

- (1) Subject to the regulations, anything done under or for the purposes of a provision of this Act that had effect immediately before the provision was amended by the amending Act is taken to have been done under or for the purposes of this Act as so amended.
- (2) Without limiting subclause (1), any authority, permit, certificate or appointment in force under a provision of this Act immediately before the amendment of the provision by the amending Act is taken to be an authority, permit, certificate or appointment in force under this Act as so amended.

## Dictionary

(Section 3)

**animal** means any non-human mammal or any bird, insect, amphibian, fish, reptile, arthropod, insect, mollusc, crustacean or other member of the animal kingdom, whether alive or dead, and includes the egg, embryo, ova or sperm of an animal and any other product of an animal from which another animal could be produced.

**animal disease agent** means any prion, virus, rickettsia, bacterium, protozoon, fungus, helminth, arthropod, insect or other pathogen or organism that is capable of causing an emergency animal disease.

**animal product** means:

- (a) the hide, skin, hair, wool, feathers, shell, horn or hoof of an animal, or
- (b) any meat, fat, milk, whey, cream, butter, cheese, eggs or other food or foodstuffs derived from an animal, or
- (c) any part of the viscera of an animal,
- (d) any dung, urine, faeces, bone or blood of an animal, or any article or substance derived from the dung, urine, faeces, bone or blood of an animal, or
- (e) any secretion of an animal, or
- (f) any product or biological preparation made or derived from any animal tissue or animal secretion, or
- (g) any article or substance derived from an animal, whether or not in combination with any other article or substance, or
- (h) any other article, substance or thing that is declared by the Minister, by order published in the Gazette, to be an animal product for the purposes of this Act.

**carcass** includes any portion of a carcass, and the hide, skin, hair, wool or viscera, of any animal.

**Chief Veterinary Officer** means the person appointed under this Act to be the Chief Veterinary Officer.

**declared area** means an area declared under Part 3 to be an infected place, restricted area or control area.

**Department** means the Department of Industry and Investment.

**Director-General** means the Director-General of the Department.

**disinfected** means bathed with a disinfectant chemical or heated, irradiated, fumigated or otherwise treated so as to defeat infection or infestation.

**domestic animal** 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.

**dwelling** includes any premises or part of any premises that is ordinarily used for residential purposes.

**emergency animal disease**—see section 6A.

**emergency animal pest**—see section 6B.

**exercise** a function includes perform a duty.

**fittings** means any stall, box, cage, enclosure, pen or material used for penning, yarding or the containing of any animal, and includes any equipment, harness, saddlery, rope, bucket, trough, bedding, utensil and implement used in the handling, keeping or storage of animals, animal products or fodder.

**fodder** means any (or any mixture of) water, meal, meat, vegetable, grain or material used for the food or litter of animals.

**free-living animal** means any animal that is not a domestic animal.

**function** includes a power, authority or duty.

**Fund** means the Emergency Animal Diseases and Pests Compensation and Eradication Fund established under this Act.

**infected** includes contaminated and also includes infested.

**inspector** means:

- (a) an inspector under the [Stock Diseases Act 1923](#), or
- (b) a police officer, or
- (c) a person appointed to be an inspector under this Act.

**local newspaper** for any place means a newspaper circulating throughout New South Wales or in a part of the State that includes that place.

**owner** of premises or of a domestic animal or other property means any person (other than a mortgagee or person with a lien or chargee not in possession) having or claiming any right, title or interest in the premises, domestic animal or property, and includes the authorised agent of an owner and, in the case of premises, any occupier.

**permit** means a permit in force under Division 4 of Part 3.

**place** includes any wharf, pier, stage, landing place, jetty, foreshore, river, lake, inlet and harbour and any other body of water within the territorial limits of the State.

**premises** includes the whole or any part of any building, erection, structure and hoarding, whether or not it is ordinarily associated with animals or animal products.

**treatment** means any procedure:

- (a) for curing, or for the alleviation, control, prevention or eradication of, an emergency animal disease, and includes vaccination, or
- (b) for the alleviation, control, prevention or eradication of an emergency animal pest.

**vehicle** 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:

- (a) any caravan, trailer, truck, train and other land vehicle, and
- (b) any ship, hovercraft, boat, ferry, raft and pontoon or other water craft, and
- (c) any aeroplane, helicopter, hot air balloon and other aircraft.

**veterinary practitioner** has the same meaning as in the [Veterinary Practice Act 2003](#).