

# Biosecurity Regulation 2017

[2017-232]



New South Wales

## Status Information

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### Provisions in force

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

### Notes—

- **Staged repeal status**

This legislation is currently due to be automatically repealed under the [Subordinate Legislation Act 1989](#) on 1 September 2024

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Biosecurity Regulation 2017



New South Wales

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# Biosecurity Regulation 2017



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Biosecurity Regulation 2017*.

### 2 Commencement

This Regulation commences on the commencement of the *Biosecurity Act 2015* and is required to be published on the NSW legislation website.

### 3 Interpretation

(1) In this Regulation—

**Agvet Code** means the *Agvet Code of New South Wales*.

**Agvet Regulations** means the *Agvet Regulations of New South Wales*.

**animal** means any member of the Animalia kingdom other than a human, whether living or not and includes—

(a) any part of any such member, or

(b) anything produced by any such member from which another animal could be produced.

**camelids** means members of the family Camelidae.

**Note—**

Camelids include camels, alpacas and llamas.

**cattle** means domestic cattle (*Bos taurus* and *Bos indicus*) and American bison or buffalo (*Bison bison*) and any cross-breeds of these species and it also includes domestic water buffalo (*Bubalus bubalis*) and banteng (*Bos javanicus*).

**equines** means members of the family Equidae.

**Note—**

Equines include horses, donkeys, asses, mules and zebras.

**fish** has the same meaning as in the [Fisheries Management Act 1994](#).

**food producing animal** means an animal of a species that produces food consumed by humans or that is used as food for humans.

**Note—**

This includes animals commonly consumed as food such as cattle and pigs, but also includes other animals such as kangaroos, rabbits, bees, crustaceans and molluscs.

**import** into the State includes move into the State.

**MRL Standard** means the standard published from time to time by the Australian Pesticides and Veterinary Medicines Authority in accordance with section 7A of the [Agricultural and Veterinary Chemicals \(Administration\) Act 1992](#) of the Commonwealth.

**Note—**

The Standard is set out in the Schedule to the [Agricultural and Veterinary Chemicals Code Instrument No. 4 \(MRL Standard\) 2012](#) of the Commonwealth.

**property identification code** means a property identification code within the meaning of the [Biosecurity \(National Livestock Identification System\) Regulation 2017](#).

**ruminant** means an animal that has a rumen including, but not limited to, alpacas, camels, cattle, deer, goats and sheep.

**the Act** means the [Biosecurity Act 2015](#).

**Note—**

The Act and the [Interpretation Act 1987](#) contain definitions and other provisions that affect the interpretation and application of this Regulation.

- (2) A reference in this Regulation to a particular dealing with biosecurity matter or a carrier (the **specified dealing**) is taken to include a reference to the following dealings—
- (a) entering into an agreement or other arrangement under which another person engages in the specified dealing,
  - (b) causing or permitting the specified dealing to occur.

**Note—**

For example, a reference to transporting biosecurity matter is taken to include a reference to causing biosecurity matter to be transported.

- (3) Notes included in this Regulation do not form part of this Regulation.

## 4 Dealings

For the purposes of section 12(1)(p) of the Act, testing for the presence of biosecurity

matter is a dealing with biosecurity matter.

## **Part 1A Declared pests**

### **4A Declared pests**

Each of the animals listed in Division 1 of Part 2 of Schedule 3 to the Act and Part 3 of Schedule 3 to the Act is declared to be a pest for the purposes of the Act.

## **Part 2 Mandatory measures**

### **Division 1 Preliminary**

#### **5 Requirements of Part are mandatory measures**

A requirement set out in this Part is a mandatory measure applicable to the biosecurity matter, carrier or dealing to which it relates.

#### **6 Exception if dealing permitted by Biosecurity Order (Permitted Activities)**

- (1) A dealing by a person with biosecurity matter or a carrier that would otherwise contravene a mandatory measure is permitted if—
  - (a) the [Biosecurity Order \(Permitted Activities\) 2019](#) specifies that the dealing with the biosecurity matter or carrier can occur if specified conditions are met, and
  - (b) the person ensures that all those conditions are met with respect to the dealing.
- (2) A person who deals with a biosecurity matter or carrier in reliance on the [Biosecurity Order \(Permitted Activities\) 2019](#) must comply with all relevant conditions of that order in relation to the dealing including a condition that may require something to occur after the dealing.

### **Division 2 Notification of pests and diseases**

#### **7 Duty to notify certain pests and diseases**

- (1) A person who in the course of engaging in a dealing with biosecurity matter or a carrier becomes aware of, or suspects, the presence of any pest or disease listed in Schedule 1 must notify the presence of the pest or disease in accordance with Part 6 within 1 working day after the person first suspects or becomes aware of the presence.
- (2) A person is required to notify under this clause only if the person—
  - (a) is the owner, occupier or person in charge of, or has the care, custody or control of, premises, a carrier or other thing in relation to which the pest or disease is present or suspected of being present, or

- (b) becomes aware of, or suspects, the presence of the pest or disease as a result of any consultation or other work carried out in relation to premises, a carrier or other thing in the person's professional capacity.

## Division 3

### 8 (Repealed)

## Division 4 Animal pests and diseases

### Subdivision 1 Bees

#### 9 Definitions

In this Subdivision—

**apiary equipment** means anything that has been used or is designed to be used in relation to the acquisition or keeping of bees or in relation to the processing, handling or storing of apiary products.

**apiary product** means anything produced by bees and includes pollen collected by bees.

#### 10 (Repealed)

#### 11 American foulbrood—carriers

(1) A person must not import into the State any of the following—

- (a) a bee,
- (b) an apiary product,
- (c) a hive or any other apiary equipment.

(2) A person must not feed an apiary product to a bee.

##### Note 1—

See Subdivision 2 of Division 1 of Part 2 of the [Biosecurity Order \(Permitted Activities\) 2019](#), which sets out exceptions to this clause.

##### Note 2—

The presence of *Paenibacillus larvae* (American foulbrood) is required to be notified under Division 2.

#### 12 Access to hives to be clear

A person must ensure that normal access to any hive owned or operated by the person is at all times clear from any obstruction that may prevent or impede the inspection of the hive.

### 13 Honey not to be exposed to robber bees

A person must ensure that any hive or other apiary equipment owned or operated by the person is protected so that a bee from another hive cannot take any honey that is in or on that hive or apiary equipment.

## Subdivision 2 Other animals

### 14 Cattle tick—carriers

A person must not import into the State any of the following animals from Queensland, the Northern Territory or Western Australia—

- (a) cattle, camelids or equines,
- (b) deer, goats or sheep.

#### Note 1—

See Subdivision 1 of Division 2 of Part 2 of the [Biosecurity Order \(Permitted Activities\) 2019](#), which sets out exceptions to this clause.

#### Note 2—

The presence of *Rhipicephalus (Boophilus) australis* (Cattle tick) or *Rhipicephalus (Boophilus) microplus* (Cattle tick) is required to be notified under Division 2.

### 15 Footrot carriers—sheep and goats

- (1) A person must not vaccinate, or attempt to vaccinate, a sheep or a goat against footrot unless approved to do so by the Chief Veterinary Officer.
- (2) A person must not import a sheep or a goat into the State.

#### Note 1—

See Subdivision 2 of Division 2 of Part 2 of the [Biosecurity Order \(Permitted Activities\) 2019](#), which sets out exceptions to this clause.

#### Note 2—

The presence of Footrot in sheep or goats is required to be notified under Division 2.

### 16 Newcastle disease—carriers

- (1) The owner of a commercial flock of domestic chickens must ensure that the chickens are vaccinated in accordance with the national *Newcastle disease vaccination program—Standard operating procedures* published by Animal Health Australia.
- (2) In this clause—

**commercial flock** of chickens means 1,000 or more chickens that are managed as a group.

**Note—**

Newcastle disease is a prohibited matter under Part 4 of the Act.

**17 (Repealed)**

**17A Rabbits**

A person must not vaccinate, or attempt to vaccinate, a rabbit with a live virus vaccine unless approved to do so by the Chief Veterinary Officer.

**Note—**

Examples of a live virus vaccine are the fibroma virus vaccine and the myxomatosis virus vaccine.

**17B Prohibition on dealings with camels, deer, pigs, rabbits and foxes**

(1) This clause applies to the following animals—

<i>Axis axis</i>	Spotted deer/Chital (wild/feral)
<i>Axis porcinus</i>	Hog deer (wild/feral)
<i>Camelus dromedarius</i>	One-humped camel/Dromedary (wild/feral)
<i>Cervus elaphus</i>	Red deer/Wapiti/Elk (wild/feral)
<i>Cervus timorensis</i>	Rusa deer (wild/feral)
<i>Cervus unicolor</i>	Sambar deer (wild/feral)
<i>Dama dama</i>	Fallow deer (wild/feral)
<i>Oryctolagus cuniculus</i>	European rabbit (wild/feral)
<i>Sus scrofa</i>	Pig (wild/feral)
<i>Vulpes vulpes</i>	European red fox

(2) A person must not engage in any of the following dealings with an animal to which this clause applies—

- (a) have possession of the animal,
- (b) move the animal,
- (c) release the animal from captivity.

(3) This clause does not apply—

- (a) if the dealing is for permitted exhibition purposes within the meaning of clause 1 of Schedule 3 to the Act, or
- (aa) if the dealing is for permitted research purposes or is ancillary to permitted research purposes, within the meaning of clause 1 of Schedule 3 to the Act, or

(b) if the dealing is or forms part of a lawful measure taken by the person to control a pest, or

(c) if the animal is dead.

- (4) An occupier of land is taken not to be engaging in a dealing for the purposes of subclause (2)(a) in relation to animals on the land unless the occupier has actual (rather than deemed) possession of the animal.

**Note—**

Section 12(2) of the Act deems an occupier of land to have possession of any biosecurity matter or carrier (including animals) on that land in certain circumstances.

## **Division 5 Aquatic pests and diseases**

### **18 Prohibition on certain dealings**

- (1) A person must not engage in any of the following dealings with an aquatic pest or disease listed in Part 2 of Schedule 1—

(a) have possession or control of the pest or disease,

(b) buy or sell the pest or disease,

(c) move the pest or disease,

(d) release the pest or disease.

- (2) This clause does not apply to a dealing that merely involves—

(a) a person catching a fish (other than *Oreochromis mossambicus* (Tilapia/ Mozambique Mouthbrooder)) from waters and then immediately returning the fish to those waters, or

(b) dealing with a dead fish.

- (3) This clause does not apply to the following—

(a) *Marteilia sydneyi* (QX disease),

**Note—**

See clause 49 which regulates certain dealings with QX disease.

(b) Ostreid herpesvirus- 1 $\mu$  variant—OshV-1  $\mu$ var (OSHV1) that causes Pacific Oyster Mortality Syndrome (POMS),

**Note—**

See clause 52 which regulates certain dealings with POMS.

(c) *Bonamia* spp. all species,

**Note—**

*Bonamia exitiosa* and *Bonamia ostreae* are prohibited matter and therefore all dealings (not just those listed in subclause (1)) are prohibited.

(d) Winter mortality (of Sydney Rock Oysters).

## 19 Tilapia

A person who catches any fish of the species *Oreochromis mossambicus* (Tilapia/Mozambique Mouthbrooder) from waters must not deal with the fish except to the extent necessary to humanely kill the fish.

### Note 1—

The presence of *Oreochromis mossambicus* (Tilapia/Mozambique Mouthbrooder) is required to be notified under Division 2.

### Note 2—

*Oreochromis* spp. (except *O. mossambicus*), *Sarotherodon* spp. and *Tilapia* spp. (except *T. buttikoferi*) are prohibited matters under Part 4 of the Act.

## 20 Abalone viral ganglioneuritis (AVG)

A person must not use any part of an abalone (such as abalone viscera) for the purposes of fishing bait or berley.

### Note—

Abalone viral ganglioneuritis is a prohibited matter under Part 4 of the Act.

## Division 6 Plant pests and diseases

### 21 Definitions

In this Division—

**covering** includes packaging.

**equipment** includes machinery.

**production** of a plant or part of a plant includes cultivation, harvesting, handling or processing of the plant or part.

**soil** means any natural or artificial matter in which a plant is grown but does not include sterilised plant tissue culture medium.

**sterilised plant tissue culture medium** means sterilised growth medium used to grow small pieces of plant tissue under sterile conditions.

### 22 Banana disease carriers

A person must not import into the State any of the following—

(a) any banana plant being any plant belonging to the family Musaceae and including any



part of any such plant,

- (b) any equipment that has been used in the production of a banana plant (**used banana production equipment**),
- (c) any soil in which a banana plant has been grown (**banana soil**),
- (d) any covering that has contained or been in contact with a banana plant, used banana production equipment or banana soil.

**Note 1—**

See Subdivision 2 of Division 3 of Part 2 of the [Biosecurity Order \(Permitted Activities\) 2019](#), which sets out exceptions to this clause.

**Note 2—**

The following are listed as prohibited matter under the Act, Part 4—

- (a) *Fusarium oxysporum* f.sp. *cubense* tropical race 4—Panama disease tropical race 4,
- (b) *Phyllosticta* spp., except *Phyllosticta maculata*—Banana freckle.

## **23 (Repealed)**

## **24 Green snail and carriers**

- (1) A person must not import into the State any of the following—
  - (a) a green snail (*Cantareus apertus*),
  - (b) a green snail host,
  - (c) any soil from within 25 kilometres of a place at which the person knows or ought reasonably to know that a green snail has been detected or has been suspected of having been detected (**green snail host soil**),
  - (d) any covering that has contained or been in contact with a green snail host or green snail host soil.
- (2) Without limiting subclause (1)(c), a person is taken to know that a green snail has been detected at a place if there is in force in respect of green snail at the place an order (however described) by a public authority that—
  - (a) identifies the place, or land on which that place is located, and
  - (b) establishes measures to prevent, eliminate, minimise or manage the biosecurity risk or biosecurity impact of green snails, and
  - (c) has been made publicly available.
- (3) In this clause—

**green snail host** means any leafy vegetable, cutting, potted plant, turf, bare rooted plant, mature tree, cut flower, foliage, hay, chaff or straw and includes any part of any of those things but does not include a plant in a sterilised plant tissue culture medium.

**Note 1—**

See Subdivision 4 of Division 3 of Part 2 of the [Biosecurity Order \(Permitted Activities\) 2019](#), which sets out exceptions to this clause.

**Note 2—**

The presence of *Cantareus apertus* (Green snail) is required to be notified under Division 2.

## **25 Lupin anthracnose—carriers**

(1) A person must not import into the State any of the following—

- (a) any lupin plant,
- (b) any equipment that has been used in the production of a lupin plant within the previous 5 years (**used lupin production equipment**),
- (c) any covering that has contained or been in contact with a lupin plant or used lupin production equipment.

(2) In this clause—

**lupin plant** means any plant belonging to the genus *Lupinus* and includes any part of such a plant but does not include lupin grain that—

- (a) is for human consumption, and
- (b) has been treated in such a way that makes the grain incapable of germination, and
- (c) is contained in a package that weighs less than 15 kilograms and that is clearly marked as being for human consumption only.

**Note 1—**

See Subdivision 5 of Division 3 of Part 2 of the [Biosecurity Order \(Permitted Activities\) 2019](#), which sets out exceptions to this clause.

**Note 2—**

*Colletotrichum lupini* (Lupin anthracnose) is a prohibited matter under Part 4 of the Act.

## **26 Mediterranean fruit fly—carriers**

(1) A person must not import into the State any of the following—

- (a) any Mediterranean fruit fly host fruit,

- (b) any soil in which a Mediterranean fruit fly host plant has been grown (***Mediterranean fruit fly host soil***),
- (c) any covering that has contained or been in contact with a Mediterranean fruit fly host fruit or Mediterranean fruit fly host soil.

(2) In this clause—

***Mediterranean fruit fly host fruit*** means the fruit of a Mediterranean fruit fly host plant but it does not include fruit that has been processed, including—

- (a) by being cooked, dried, canned, juiced, pickled or frozen, or
- (b) by being cut up and packaged.

***Mediterranean fruit fly host plant*** means any plant set out in Schedule 2.

**Note 1—**

See Subdivision 6 of Division 3 of Part 2 of the [Biosecurity Order \(Permitted Activities\) 2019](#), which sets out exceptions to this clause.

**Note 2—**

*Ceratitis capitata* (Mediterranean fruit fly) is a prohibited matter under Part 4 of the Act.

## **27 Orange stem pitting strains of *Citrus tristeza virus*—carriers**

- (1) A person must not import into the State any of the following—
  - (a) anything infected with orange stem pitting strains of *Citrus tristeza virus*,
  - (b) a *Citrus tristeza virus* host plant.
- (2) A person must not offer a *Citrus tristeza virus* host plant for sale unless it is labelled, or otherwise identified, in a manner approved by the Secretary.
- (3) In this clause—

***Citrus tristeza virus host plant*** means a plant of the genus *Citrus*, *Eremocitrus*, *Microcitrus*, *Monanthocitrus*, *Fortunella* or *Clymenia*, and includes any part of any such plant other than the fruit.

**Note 1—**

See Subdivision 7 of Division 3 of Part 2 of the [Biosecurity Order \(Permitted Activities\) 2019](#), which sets out exceptions to this clause.

**Note 2—**

The presence of orange stem pitting strains of *Citrus tristeza virus* is required to be notified under Division 2.

## 28 Pyriform scale and carriers

A person must not import into the State any of the following—

- (a) *Protopulvinaria pyriformis* (Pyriform scale),
- (b) a plant belonging to the family Acanthaceae, Agavaceae, Anacardiaceae, Apocynaceae, Aquifoliaceae, Araceae, Araliaceae, Asclepiadaceae, Cannaceae, Caprifoliaceae, Caricaceae, Convolvulaceae, Ebenaceae, Elaeocarpaceae, Euphorbiaceae, Fabaceae, Lauraceae, Lythraceae, Malpighiaceae, Malvaceae, Moraceae, Musaceae, Myricaceae, Myrtaceae, Oleaceae, Orchidaceae, Passifloraceae, Phyllanthaceae, Pittosporaceae, Punicaceae, Rubiaceae, Rutaceae, Saxifragaceae, Scrophulariaceae or Verbenaceae including any part of any such plant but not including the following—
  - (i) a bare rooted plant without leaves,
  - (ii) a fruit,
  - (iii) a cut flower.

### Note 1—

See Subdivision 8 of Division 3 of Part 2 of the [Biosecurity Order \(Permitted Activities\) 2019](#), which sets out exceptions to this clause.

### Note 2—

The presence of *Protopulvinaria pyriformis* (Pyriform scale) is required to be notified under Division 2.

## 29 Spiraling whitefly—carriers

A person must not import into the State a plant (including any part of a plant other than a flower, fruit or seed).

### Note 1—

See Subdivision 9 of Division 3 of Part 2 of the [Biosecurity Order \(Permitted Activities\) 2019](#), which sets out exceptions to this clause.

### Note 2—

*Aleurodicus dispersus* (Spiraling whitefly) is a prohibited matter under Part 4 of the Act.

## 30 Tomato yellow leaf curl virus (TYLCV)—carriers

A person must not import into the State any of the following—

- (a) anything infested with *Tomato yellow leaf curl virus* (TYLCV),
- (b) any of the following plants (including any part of any such plant other than a seed, fruit or flower)—

- (i) tomato (*Lycopersicon esculentum*),
- (ii) bean (*Phaseolus vulgaris*),
- (iii) lisianthus (*Eustoma grandiflora*),
- (iv) lobed croton (*Croton lobatus*),
- (v) *Capsicum* spp.,

**Note—**

*Capsicum* spp. includes capsicum and chillies.

- (vi) *Euphorbia* spp.,

**Note—**

*Euphorbia* spp. includes poinsettia.

- (vii) *Physalis* spp..

**Note—**

*Physalis* spp. includes cape gooseberry.

**Note 1—**

See Subdivision 10 of Division 3 of Part 2 of the [Biosecurity Order \(Permitted Activities\) 2019](#), which sets out exceptions to this clause.

**Note 2—**

The presence of *Tomato yellow leaf curl virus* (TYLCV) is required to be notified under Division 2.

## Division 7 Invasive species

### 31 European house borer and carriers

A person must not import into the State any of the following—

- (a) *Hylotrupes bajulus* (European house borer),
- (b) any wood product from a tree of the genus *Pinus*, *Abies*, *Picea*, *Araucaria* or *Pseudotsuga* other than the following—
  - (i) any wood product made only of heartwood,
  - (ii) any wood product made only of reconstituted pinewood,
  - (iii) wooden household articles and furniture imported by or on behalf of a person for the personal use of the person or a member of the person's household,

**Note—**

Such as a person moving to NSW who ships the contents of their home.

- (iv) any wood product less than 4 millimetres thick.

**Note 1—**

See Subdivision 1 of Division 4 of Part 2 of the *Biosecurity Order (Permitted Activities) 2019*, which sets out exceptions to this clause.

**Note 2—**

The presence of *Hylotrupes bajulus* (European house borer) is required to be notified under Division 2.

**32 (Repealed)**

**Division 8 Weeds**

**33 Prohibition on certain dealings**

A person must not import into the State or sell any plant listed in Schedule 3.

**34 Duty to notify of importation of plants into the State**

- (1) A person must not import into the State a species of vascular plant (*Tracheophyta*) if the species is not currently present in the State unless the person has, at least 20 working days before the plant is imported into the State, notified the species of plant and its proposed location within the State.
- (2) The notification is to be given to the Secretary and is to be given in accordance with Part 6.
- (3) A species of plant is taken not to be present in the State if the National Herbarium of New South Wales does not show it as being present in the State.

**Note—**

See <http://plantnet.rbgsyd.nsw.gov.au/>.

**35 Parthenium weed carriers—machinery and equipment**

- (1) This clause applies to the following equipment—
  - (a) grain harvesters (including the comb or front),
  - (b) comb trailers (including the comb or front),
  - (c) bins used for holding grain during harvest operations,
  - (d) augers or similar equipment used for moving grain,
  - (e) vehicles used for transporting grain harvesters,
  - (f) vehicles used as support vehicles with grain harvesters and that have been driven in paddocks during harvest operations,

(g) mineral exploration drilling rigs and vehicles used for transporting those rigs.

(2) A person must not import into the State from Queensland any equipment to which this clause applies.

**Note 1—**

See Division 5 of Part 2 of the [Biosecurity Order \(Permitted Activities\) 2019](#), which sets out exceptions to this clause.

**Note 2—**

*Parthenium hysterophorus* (Parthenium weed) is a prohibited matter under Part 4 of the Act.

## Division 9 Animal feed

### 36 Definitions

In this Division—

**feed**, a particular material to an animal, includes—

- (a) allowing or directing another person to feed the material to the animal, or
- (b) if the material may be ingested by the animal—allowing the animal to have access to the material.

**National Standard for Recycling of Used Cooking Fats and Oils Intended for Animal Feeds** means the document of that name approved by the Primary Industries Ministerial Council and published on the website of the Australian Renderers Association.

**restricted animal material** means any material derived from a vertebrate.

**Note—**

Restricted animal material includes rendered products—for example, blood meal, meat meal, meat and bone meal, fish meal, poultry meal, feather meal, and compounded feeds made from these products.

### 37 Prohibited pig feed

- (1) A person must not feed material to a pig if the material contains a mammal product unless the feeding of the mammal product to the pig is otherwise authorised by this clause.
- (2) A mammal product may be fed to a pig if the mammal product—
  - (a) has been rendered in accordance with the relevant Australian Standard dealing with the rendering of animal products, or

**Note—**

See AS 5008—2007, *Hygienic rendering of animal products* (or any standard that replaces that standard).

- (b) (Repealed)
  - (c) has been treated using a process that has been approved by the Animal Health Committee and that process is carried out under a jurisdictional permit, or
  - (d) is identified in a permit issued by the Chief Veterinary Officer that authorises the mammal product to be fed to a pig for the purposes of research or baiting during the period specified in the permit.
- (2A) A person may feed a mammal product to a pig by allowing the pig to access the product in circumstances where it would not be reasonable for the person to prevent the pig from having access to the product.
- (2B) The circumstances referred to in subclause (2A) include the following—
- (a) a pig having access to a placenta of its own origin or originating from a herd mate,
  - (b) a pig having access to the naturally deposited faeces of wildlife, herd mates or other stock animals,
  - (c) a free-ranging pig having access to carcasses of herd mates or wildlife.
- (3) Milk (including milk products and by-products) may be fed to a pig if the milk is of Australian provenance or it has been lawfully imported into Australia for stock food use.
- (4) Cooking oil or fat may be fed to a pig if the oil or fat—
- (a) has been used in Australia for cooking, and
  - (b) has been treated in accordance with the *National Standard for Recycling of Used Cooking Fats and Oils Intended for Animal Feeds*.
- (5) Any part of a domestic pig may be fed to another pig on a property if—
- (a) the domestic pig was born on and spent its entire life on the property, and
  - (b) the feeding occurs as part of a therapeutic process in accordance with the written instructions of a registered veterinary practitioner.
- (6) A person must not possess (which includes collecting or storing) stock food containing a mammal product on a property on which a pig is kept unless the feeding of the stock food to the pig is authorised by this clause or the stock food is intended to be consumed by an animal other than a pig.
- (7) A person must not supply material containing a mammal product to another person knowing or reasonably suspecting that it is to be fed to a pig unless the feeding of the mammal product to a pig is authorised by this clause.



- (8) This clause applies to something that has had direct contact with a mammal product in the same way it applies to the mammal product.

- (9) In this clause—

**Animal Health Committee** means the Animal Health Committee of the National Biosecurity Committee established under the Intergovernmental Agreement on Biosecurity.

**jurisdictional permit** means a permit issued by the Chief Veterinary Officer or a person holding an equivalent position in another Australian jurisdiction.

**mammal** does not include human.

**mammal product** means any part of a mammal or anything produced by a mammal.

### **38 Feeding restricted animal material to ruminants**

- (1) A person must not feed restricted animal material to a ruminant unless the feeding of the restricted animal material to the ruminant is otherwise authorised by this clause.
- (2) A person may feed the following restricted animal material to a ruminant—
- (a) gelatin,
  - (b) tallow,
  - (c) milk of Australian origin,
  - (d) milk, a milk product or a milk by-product legally imported into Australia for the purpose of feeding a particular animal,
  - (e) a milk product made in Australia and derived from the following—
    - (i) milk of Australian origin,
    - (ii) milk, a milk product or a milk by-product legally imported into Australia for the purpose of feeding a particular animal,
  - (f) used cooking oil,
  - (g) mineralised sea bird guano.
- (3) A person may feed restricted animal material to a ruminant by allowing the ruminant access to the material if it would not be reasonable in the circumstances for the person to prevent the ruminant from having access to the material, including in, but not limited to, the following circumstances—
- (a) a ruminant having access to a placenta,

- (b) a ruminant licking another ruminant,
- (c) a ruminant finding the bones of wildlife or herd mates,
- (d) a ruminant having access to the naturally deposited faeces of wildlife or herd mates.

(4) In this clause—

**tallow** means a product that—

- (a) contains rendered fats and oils from an animal, and
- (b) has been rendered in accordance with AS 5008—2007, *Hygienic rendering of animal products* (or any standard that replaces that standard), and
- (c) complies with a specification of a maximum of 2% M+I (moisture plus insoluble impurities) as measured by the American Oil Chemists' Society (AOCS).

**Note—**

This includes products known as acid oil and yellow grease.

**used cooking oil** means oil that—

- (a) was previously used, in Australia, for the purposes of cooking, and
- (b) has been collected, processed and packaged in accordance with the *National Standard for Recycling of Used Cooking Fats and Oils Intended for Animal Feeds*.

### **39 Labelling requirements in respect of restricted animal material**

- (1) A person must not supply stock food to another person unless the packaging or container holding the stock food prominently displays either of the following statements—
  - (a) in the case of stock food that contains restricted animal material—a warning statement that the stock food contains restricted animal material and must not be fed to cattle, sheep, goats, deer or other ruminants,
  - (b) in the case of stock food that does not contain restricted animal material—a statement that the stock food does not contain restricted animal material.
- (2) The statement must—
  - (a) be clear, readily legible and be prominently displayed, and
  - (b) be printed on a contrasting colour, and
  - (c) have lettering that is at least 10 millimetres high in the case of a statement on a woven bag or 3 millimetres high in any other case, and

(d) if the statement is printed on a label—be printed on a label that is at least 45 millimetres by 120 millimetres in size.

(3) This clause does not apply to a stock food that has not been through a manufacturing process, such as hay, straw or chaff, nor does it apply to a stock food that consists entirely of milk (including a milk product or by-product).

(4) (Repealed)

#### **40 Substances in stock food**

A person must not supply to another person stock food that contains a substance at a concentration that is higher than—

- (a) if the substance is an ingredient for which a maximum amount is specified in Schedule 4 in relation to the stock food—that maximum amount, or
- (b) if the substance is a pesticide specified in respect of the stock food in the MRL Standard—the maximum residue limit of that pesticide.

**Note—**

See Table 4 in Part 2 of the MRL Standard.

### **Division 10 Chemicals in food animals and animal products**

#### **41 Reporting of test results**

- (1) This clause applies to a test that is carried out at a laboratory or other facility to determine any of the following—
  - (a) whether an agricultural or veterinary chemical (for which a maximum residue limit is set out in the MRL standard) is present in the body tissue or secretions of a food producing animal,
  - (b) whether an agricultural or veterinary chemical (for which a maximum residue limit is not set out in the MRL standard) is present in an animal food commodity derived from a food producing animal,
  - (c) whether a polychlorinated biphenyl or a metal (for which a maximum level is set in Schedule 19 of the *Food Standards Code*) is present in the body tissue or secretions of a food producing animal.
- (2) The owner of the laboratory or other facility at which the test has been carried out must furnish (in person or electronically) a written report of the results of the test to an authorised officer within 1 working day after the test results become available.
- (3) The report must include the following—
  - (a) the name of the laboratory or facility at which the test was carried out,

- (b) the identifying number allocated in respect of the report by the laboratory or other facility,
- (c) the name of the person who had responsibility for the contents of the report,
- (d) the date on which the report was prepared,
- (e) for each sample tested—
  - (i) the date the sample was taken, and
  - (ii) the date the sample was submitted to the laboratory or other facility, and
  - (iii) the name and address of the person who submitted the sample, and
  - (iv) the species of animal from which the sample was taken, and
  - (v) if known—the name, address and telephone number and email address of the owner of the animal from which the sample was taken, and
  - (vi) if known—details identifying the property from which the food producing animal came, including the address of the property, the property identification code, the region under the [Local Land Services Act 2013](#) in which the property is situated, and the particulars of identification for the animal in accordance with the Act, and
  - (vii) the test method used or an identifying code for that test method, and
  - (viii) a description of the tissue or other material tested, and
  - (ix) any chemical residue or contaminant identified which causes the food producing animal to be categorised as chemically affected, and
  - (x) the level of any chemical residue or contaminant so identified.

(4) In this clause—

**animal food commodity** means an animal food commodity specified in the *Australia New Zealand Food Standards Code—Schedule 22—Foods and classes of foods* made under the [Food Standards Australia New Zealand Act 1991](#) of the Commonwealth (or any standard that replaces that standard).

**Schedule 19 of the Food Standards Code** means the *Australia New Zealand Food Standards Code—Schedule 19—Maximum levels of contaminants and natural toxicants* made under the [Food Standards Australia New Zealand Act 1991](#) of the Commonwealth (or any standard that replaces that standard).

#### 42 Notifying purchaser about chemical status of animal

The vendor of a food producing animal must (before or at the time of the sale) inform the

purchaser if—

- (a) the animal has (within the 60 days before the sale) consumed anything treated with a chemical product during the withholding period (within the meaning of the Agvet Code) for that chemical product, or
- (b) the animal is chemically affected within the meaning of section 13(2) of the Act, or
- (c) the animal has at any time been treated with a **hormonal growth promotant** (being a veterinary chemical product containing one or more substances that promote oestrogenic, androgenic or gestagenic activity to enhance growth or production (or both) in cattle).

## Division 11 Fertilisers, liming materials and trace element products

### 43 Maximum concentrations of cadmium, lead and mercury

- (1) A person must not import, supply or use a fertiliser, liming material or trace element product that has a concentration of cadmium, mercury or lead above the maximum concentration.

**Note—**

Persons may be prohibited from using fertiliser, liming material or trace element product containing these heavy metals (even at the maximum or lower concentrations) by other laws such as the [Protection of the Environment Operations Act 1997](#).

- (2) For the purposes of this clause, the maximum concentration of cadmium, lead or mercury in fertilisers, liming material or trace element products are as follows—
  - (a) in the case of **phosphatic fertiliser** (being a solid fertiliser that contains not less than 3 per cent phosphorus or a liquid fertiliser that contains not less than 2 per cent phosphorus)—
    - (i) 300 milligrams of cadmium per kilogram of phosphate, and
    - (ii) 100 milligrams of lead per kilogram of fertiliser, and
    - (iii) 5 milligrams of mercury per kilogram of fertiliser,
  - (b) in the case of a fertiliser other than a phosphatic fertiliser—
    - (i) 10 milligrams of cadmium per kilogram of fertiliser, and
    - (ii) 100 milligrams of lead per kilogram of fertiliser, and
    - (iii) 5 milligrams of mercury per kilogram of fertiliser,
  - (c) in the case of liming material—
    - (i) 10 milligrams of cadmium per kilogram of liming material, and

- (ii) 100 milligrams of lead per kilogram of liming material, and
- (iii) 5 milligrams of mercury per kilogram of liming material,
- (d) in the case of a **direct application trace element product** (being a trace element product that is represented as being suitable for direct application to soil)—
  - (i) 50 milligrams of cadmium per kilogram of trace element product, and
  - (ii) 2000 milligrams of lead per kilogram of trace element product, and
  - (iii) 5 milligrams of mercury per kilogram of trace element product,
- (e) in the case of a trace element product other than a direct application trace element product—
  - (i) 50 milligrams of cadmium per kilogram of trace element product, and
  - (ii) 500 milligrams of lead per kilogram of trace element product, and
  - (iii) 5 milligrams of mercury per kilogram of trace element product.

#### 44 Labelling of parcels

- (1) This clause applies to a fertiliser, liming material or trace element product only if the fertiliser, liming material or trace element product has a concentration of cadmium, lead or mercury above the following levels (the **trigger levels**)—
  - (a) cadmium—1 milligram per kilogram of fertiliser, liming material or trace element,
  - (b) lead—20 milligrams per kilogram of fertiliser, liming material or trace element,
  - (c) mercury—0.2 milligrams per kilogram of fertiliser, liming material or trace element.
- (2) A person must not import into the State or supply a fertiliser, liming material or trace element product unless the **parcel** (being the sack, package or container holding the fertiliser, liming material or trace element product)—
  - (a) is clearly marked to show the proportion of cadmium, lead and mercury in the fertiliser, liming material or trace element product expressed as milligrams per kilogram or parts per million, and
  - (b) is clearly marked with the prescribed warning.
- (3) In this clause, the **prescribed warning** is—
  - (a) if the concentration of cadmium is not more than 1 milligram per kilogram of fertiliser or liming material—“This product contains heavy metal impurities. Its use

may result in the accumulation of [lead/mercury/lead and mercury (*select only those metals that are present in the product above the metal's trigger level*)] in the soil and may lead to residue levels in plant and animal products in excess of the maximum level specified by the Australia New Zealand Food Standards Code.”, or

- (b) if the concentration of cadmium is more than 1 milligram per kilogram of fertiliser or liming material—“This product contains heavy metal impurities. Its use may result in the accumulation of [cadmium/cadmium and lead/cadmium and mercury/cadmium, lead and mercury (*select only those metals that are present in the product above the metal's trigger level*)] in the soil. Depending on soil characteristics, irrigation water quality, plant species and variety, crop uptake of cadmium may lead to residue levels in plant and animal products in excess of the maximum level specified by the Australia New Zealand Food Standards Code. In pasture, the offal from grazing animals may also exceed these limits.”.

## **Division 12 Biosecurity management plans**

### **44A Application of Division**

- (1) This Division applies to a place at which—
- (a) a commercial or educational activity is carried on for the purpose of intensive or extensive agriculture or horticulture or for the purpose of processing agricultural or horticultural products, and
  - (b) persons engage in dealings with biosecurity matter or a carrier.
- (2) This Division does not apply to a person who enters or is in a management area under the authority of an Act or another law.
- (3) Nothing in this Division requires a person who carries on an activity at a place to which this Division applies to adopt a biosecurity management plan for the place.

### **44B Biosecurity management plans**

- (1) For the purposes of this Division, a **biosecurity management plan** for a place to which this Division applies is a plan that—
- (a) contains reasonable measures to prevent, eliminate or minimise the risk of a biosecurity impact caused by persons entering or carrying out activities at or from the place, and
  - (b) has been prepared by or on behalf of, or adopted by, the person conducting a commercial or an educational activity at the place.
- (2) A biosecurity management plan may apply to the whole or a part or parts of a place (the **management area**).

- (3) Without limiting subclause (1), a biosecurity plan adopted under an industry scheme applicable to a place to which this Division applies is taken to be a biosecurity management plan for the purposes of this Part.
- (4) A provision of a biosecurity management plan that is not a measure of a kind referred to in subclause (1)(a) is taken not to be part of that plan for the purposes of this Division.

#### **44C Compliance with biosecurity management plans**

- (1) A person who enters or who is at or in a management area and who deals with biosecurity matter or a carrier must, while in the area, comply with the applicable requirements of the biosecurity management plan.
- (2) A person is not required to comply with a biosecurity management plan for a place unless a notice setting out the following matters is conspicuously posted at each entrance to the place—
  - (a) that persons entering a management area at the place must comply with the biosecurity management plan and that failure to do so may be an offence under the [Biosecurity Act 2015](#),
  - (b) how a copy of the plan may be obtained,
  - (c) contact details of a person who can explain the obligations under the plan.

### **Part 2A Exemptions relating to dealings with prohibited matter**

#### **44D Purpose of Part**

This Part sets out the circumstances in which a person is taken not to be dealing with or engaging in a dealing with a biosecurity matter or carrier that is prohibited matter for the purposes of section 28(1) or (2) of the Act.

#### **44E Dealings with particular vaccines**

- (1) This clause applies to a person who engages in a dealing with a vaccine that contains prohibited matter if—
  - (a) the person is permitted to engage in the dealing with the vaccine under a permit issued in accordance with section 112 or 112A of the Agvet Code, and
  - (b) the person complies with the conditions, if any, of the permit.
- (2) The person is taken not to have engaged in a dealing with the prohibited matter.

### **Part 2B Declared biosecurity events**



#### **44F Declared biosecurity events**

The happening of any of the following is declared to be a biosecurity event—

- (a) the appearance of ulcers or blisters on the mouth or feet of ruminants or pigs,
- (a1) the appearance of skin nodules on cattle,
- (b) an unexplained and significant increase in a mortality rate or morbidity rate in plants or animals,
- (c) an unexplained and significant fall in production relating to plants or animals,
- (d) the appearance of other unexplained and significant clinical signs in animals including, but not limited to, unexplained neurological signs or conditions.

### **Part 2C Biosecurity zone—animal pests**

#### **Division 1 Preliminary**

##### **44G Exception if dealing permitted by Biosecurity Order (Permitted Activities)**

- (1) A dealing by a person with biosecurity matter or a carrier that would otherwise contravene this Part is permitted if—
  - (a) the [Biosecurity Order \(Permitted Activities\) 2019](#) specifies that the dealing with the biosecurity matter or carrier can occur if specified conditions are met, and
  - (b) the person ensures that all those conditions are met with respect to the dealing.
- (2) A person who deals with a biosecurity matter or carrier in reliance on the [Biosecurity Order \(Permitted Activities\) 2019](#) must comply with all relevant conditions of that order in relation to the dealing including a condition that may require something to occur after the dealing.

#### **Division 2 Cane toad biosecurity zone**

##### **44H Establishment of biosecurity zone**

- (1) A biosecurity zone, to be known as the **cane toad biosecurity zone**, is established for all land within the State other than the following land—
  - (a) all land within the following local government areas—
    - (i) Tweed,
    - (ii) Byron,
    - (iii) Lismore,

- (iv) Ballina,
- (b) all land within the part of the local government areas of Kyogle and Richmond Valley bounded by Summerland Way in the west,
- (c) all land within the part of the local government area of Clarence Valley bounded by—
  - (i) in the south—the part of the Clarence River east of the town of Lawrence, and
  - (ii) in the west—by—
    - (A) the part of Pringles Way between the town of Lawrence and its intersection with Summerland Way, and
    - (B) the part of Summerland Way north of its intersection with Pringles Way.
- (2) The cane toad biosecurity zone is established to manage the biosecurity risk of the pest *Rhinella marina* (Cane toad).

#### **44I Regulatory measure**

- (1) An owner or occupier of land in the cane toad biosecurity zone on which there is the pest *Rhinella marina* (Cane toad) must—
  - (a) if the pest is part of a new infestation of the pest on the land, notify an authorised officer as soon as practicable in accordance with Part 6, and
  - (b) to the extent it is reasonably practicable, humanely destroy the pest on the land by any lawful method, and
  - (c) to the extent it is reasonably practicable, prevent the spread of the pest from the land.
- (2) A person must not engage in any of the following dealings with the pest *Rhinella marina* (Cane toad) in the cane toad biosecurity zone—
  - (a) have possession of the pest animal,
  - (b) move the pest animal,
  - (c) release the pest animal from captivity.
- (3) However—
  - (a) subclause (2)(a) or (b) does not apply if—
    - (i) the dealing is for permitted exhibition purposes within the meaning of clause 1 of Schedule 3 to the Act, or
    - (ii) the dealing is for permitted research purposes, or is ancillary to permitted

- research purposes, within the meaning of clause 1 of Schedule 3 to the Act, or
- (iii) the dealing is for permitted pest animal incursion program purposes within the meaning of clause 1 of Schedule 3 to the Act, and
  - (iv) the dealing is or forms part of a lawful measure taken by the person to control a pest, including, but not limited to, a measure taken for the purposes of complying with subclause (1), and
- (b) subclause (2)(c) does not apply if—
- (i) the dealing is for permitted research purposes, or is ancillary to permitted research purposes, within the meaning of clause 1 of Schedule 3 to the Act, or
  - (ii) the dealing is for permitted pest animal incursion program purposes within the meaning of clause 1 of Schedule 3 to the Act.
- (4) An occupier of land is taken not to be engaging in a dealing for the purposes of subclause (2)(a) in relation to animals on the land unless the occupier has actual (rather than deemed) possession of the animal.

**Note—**

Section 12(2) of the Act deems an occupier of land to have possession of any biosecurity matter or carrier (including animals) on that land in certain circumstances.

## **Part 3 Biosecurity zones—aquatic pests and diseases**

### **Division 1 Preliminary**

#### **45 Definitions**

In this Part—

**estuary** has the same meaning as it has in the [Coastal Management Act 2016](#).

**oyster cultivation equipment** means equipment, structures, vessels and any other thing used in the cultivation of oysters.

#### **46 Exception if dealing permitted by Biosecurity Order (Permitted Activities)**

- (1) A dealing by a person with biosecurity matter or a carrier that would otherwise contravene this Part is permitted if—
  - (a) the [Biosecurity Order \(Permitted Activities\) 2019](#) specifies that the dealing with the biosecurity matter or carrier can occur if specified conditions are met, and
  - (b) the person ensures that all those conditions are met with respect to the dealing.
- (2) A person who deals with a biosecurity matter or carrier in reliance on the [Biosecurity Order \(Permitted Activities\) 2019](#) must comply with all relevant conditions of that

order in relation to the dealing including a condition that may require something to occur after the dealing.

## Division 2 QX disease biosecurity zone

### 47 Establishment of biosecurity zone

- (1) A biosecurity zone, to be known as the **QX disease biosecurity zone**, is established for all estuaries and ocean waters in the State.
- (2) The QX disease biosecurity zone is established to manage the biosecurity risk of *Marteilia sydneyi* (QX disease).

**Note—**

The presence of *Marteilia sydneyi* (QX disease) is required to be notified under Division 2 of Part 2.

### 48 Persons to whom regulatory measures apply

The regulatory measures set out in this Division apply only to persons who deal with oysters where some or all of those dealings are authorised (or are required to be authorised) by a permit under the [Fisheries Management Act 1994](#).

**Note—**

See the [Fisheries Management \(Aquaculture\) Regulation 2017](#), in particular, Part 2, Division 3.

### 49 Regulatory measures

- (1) Each of the following is declared to be a **high QX risk area**—
  - (a) the estuary, including any directly connected estuary, of the following rivers—
    - (i) Richmond River,
    - (ii) Clarence River,
    - (iii) Macleay River,
    - (iv) Bellinger River and Kalang River,
    - (v) Hawkesbury River,
    - (vi) Georges River and Botany Bay,
  - (b) the tidal waters of Port Stephens, including its bays, inlets and tributaries upstream of a line drawn from the southernmost point of Yacaaba Headland to the northernmost point of Tomaree Headland.
- (1A) To avoid doubt, the waters specified in subclause (1)(b) include the estuaries of the Karuah River, Myall River and Tilligerry Creek.

- (2) The estuary (which includes any directly connected estuary) of each of the following rivers is declared to be a **medium QX risk area**—
  - (a) Tweed River,
  - (b) Brunswick River.
- (3) All other parts of the QX disease biosecurity zone are declared to be **low QX risk areas**.
- (4) A person must not put an oyster that is infected with QX disease (or that the person suspects is infected with QX disease) in any waters in the QX disease biosecurity zone unless the person has taken the oyster from the waters and then as soon as reasonably practicable returns the oyster to those waters.
- (5) A person must not remove an oyster from waters in a high QX risk area except as follows—
  - (a) to relocate of the oyster to another high QX risk area where such relocation is otherwise lawfully permitted,
  - (b) to cull the oyster if this occurs within the catchment of the waters.
- (6) A person must not remove an oyster from waters in a medium QX risk area except as follows—
  - (a) to relocate of the oyster to a high QX risk area or another medium QX risk area where such relocation is otherwise lawfully permitted,
  - (b) to cull the oyster if this occurs within the catchment of the waters.
- (7) A person must not move oyster cultivation equipment—
  - (a) from a high QX risk area to a medium QX risk area or low QX risk area, or
  - (b) from a medium QX risk area to a low QX risk area.

**Note—**

See the [Biosecurity Order \(Permitted Activities\) 2019](#), Part 3, Division 2, which sets out an exception to this subclause.

- (8) A person must not sell an oyster if the person knows or ought reasonably to know that the oyster is infected with QX disease.
- (9) A person must not move or release QX disease (which includes moving or releasing anything infected or contaminated with QX disease) if the person knows or ought reasonably to know that the person is moving or releasing QX disease.
- (10) Nothing in this clause prevents a person from taking an oyster from waters in the QX

disease biosecurity zone for the purposes of sale for human consumption or selling an oyster for that purpose.

**Note—**

Moving oysters and oyster cultivation equipment may be precluded by the conditions of an aquaculture permit under the [Fisheries Management Act 1994](#).

## **Division 3 POMS biosecurity zone**

### **50 Establishment of biosecurity zone**

- (1) A biosecurity zone, to be known as the **POMS biosecurity zone**, is established for each of the following estuaries (including any directly connected estuary)—
  - (a) Georges River and Botany Bay,
  - (b) Hawkesbury River,
  - (c) Brisbane Water.
- (2) The POMS biosecurity zone is established to manage the biosecurity risk of Ostreid herpesvirus- 1 $\mu$  variant—OshV-1  $\mu$ var (OSHV1) that causes Pacific Oyster Mortality Syndrome (POMS).

**Note—**

The presence of Ostreid herpesvirus- 1 $\mu$  variant—OshV-1  $\mu$ var (OSHV1) that causes Pacific Oyster Mortality Syndrome (POMS) is required to be notified under Division 2 of Part 2.

### **51 Persons to whom regulatory measures apply**

The regulatory measures set out in this Division apply only to persons who deal with oysters where some or all of those dealings are authorised (or are required to be authorised) by a permit under the [Fisheries Management Act 1994](#).

**Note—**

See the [Fisheries Management \(Aquaculture\) Regulation 2012](#), in particular, Division 2A of Part 2.

### **52 Regulatory measures**

- (1) A person must not move an oyster from the POMS biosecurity zone into waters outside of that zone.
- (2) A person must not move oyster cultivation equipment from the POMS biosecurity zone into waters outside of that zone.

**Note—**

See Division 2 of Part 3 of the [Biosecurity Order \(Permitted Activities\) 2019](#), which sets out an exception to this subclause.

- (3) A person must not sell an oyster if the person knows or ought reasonably to know that

the oyster is infected with POMS.

- (4) A person must not move or release POMS (which includes moving or releasing anything infected or contaminated with POMS) if the person knows or ought reasonably to know that the person is moving or releasing POMS.
- (5) Nothing in this clause prevents a person from taking an oyster from waters in the POMS biosecurity zone for the purposes of sale for human consumption or selling an oyster for that purpose.

## Part 4 Biosecurity zones—plant pests and diseases

### Division 1 Preliminary

#### 53 Definitions

In this Part—

**covering** includes packaging.

**equipment** includes machinery.

**production** of a plant or part of a plant includes cultivation, harvesting, handling or processing of the plant or part.

**soil** means any natural or artificial matter in which a plant is grown but does not include sterilised plant tissue culture medium.

**sterilised plant tissue culture medium** means sterilised growth medium used to grow small pieces of plant tissue under sterile conditions.

#### 54 Exception if dealing permitted by Biosecurity Order (Permitted Activities)

- (1) A dealing by a person with biosecurity matter or a carrier that would otherwise contravene this Part is permitted if—
  - (a) the [Biosecurity Order \(Permitted Activities\) 2019](#) specifies that the dealing with the biosecurity matter or carrier can occur if specified conditions are met, and
  - (b) the person ensures that all those conditions are met with respect to the dealing.
- (2) A person who deals with a biosecurity matter or carrier in reliance on the [Biosecurity Order \(Permitted Activities\) 2019](#) must comply with all relevant conditions of that order in relation to the dealing including a condition that may require something to occur after the dealing.

## Division 2 Citrus red mite biosecurity zone

### 55 Establishment of biosecurity zone

- (1) A biosecurity zone, to be known as the ***citrus red mite biosecurity zone***, is established for all land within the counties of Cumberland and Northumberland.
- (2) The citrus red mite biosecurity zone is established to manage the biosecurity risk of the pest *Panonychus citri* (Citrus red mite).

**Note—**

The presence of *Panonychus citri* (Citrus red mite) is required to be notified under Division 2 of Part 2.

### 56 Regulatory measures

A person must not move out of the biosecurity zone any plant of the genus *Citrus*, *Eremocitrus*, *Microcitrus*, *Monanthocitrus*, *Fortunella* or *Poncirus* or any part (other than a fruit) of any such plant.

**Note 1—**

See Division 2 of Part 4 of the [Biosecurity Order \(Permitted Activities\) 2019](#), which sets out exceptions to this subclause.

**Note 2—**

Part of a plant would include budwood used for propagation.

## Division 3 Grapevine phylloxera biosecurity zone

### 57 Definitions

In this Division—

***grapevine phylloxera carrier*** means the following—

- (a) a grapevine plant,
- (b) any equipment that has, within the previous 2 years, been used in the production of a grapevine plant,
- (c) any soil, mulch or soil improving material (such as garden organics) that has, within the previous 2 years, been—
  - (i) in contact with a grapevine plant, or
  - (ii) within 100 metres of a living grapevine plant.

***grapevine plant*** means any plant belonging to the genus *Vitis* and including any part of any such plant other than—

- (a) packaged dried fruit, or



- (b) wine.

**NSW phylloxera infested zone** has the same meaning as in Part 2 of Schedule 2 to the Act.

## 58 Establishment of biosecurity zone

- (1) A biosecurity zone, to be known as the **grapevine phylloxera biosecurity zone**, is established for all land within the State.
- (2) The grapevine phylloxera biosecurity zone is established to manage the biosecurity risk of the pest *Daktulosphaira vitifoliae* (Grapevine phylloxera).

### Note—

*Daktulosphaira vitifoliae* (Grapevine phylloxera) is prohibited matter under Part 4 of the Act in that part of the State that is not in the NSW phylloxera infested zone.

## 59 Regulatory measures

- (1) A person must not move any grapevine phylloxera carrier into the grapevine phylloxera biosecurity zone.

### Note—

See Subdivision 2 of Division 3 of Part 4 of the [Biosecurity Order \(Permitted Activities\) 2019](#), which sets out exceptions to this subclause.

- (2) A person must not move any grapevine phylloxera carrier from the NSW phylloxera infested zone to any part of the State that is not in the NSW phylloxera infested zone.

### Note—

See Subdivision 3 of Division 3 of Part 4 of the [Biosecurity Order \(Permitted Activities\) 2019](#), which sets out exceptions to this subclause.

## Division 4 Potato biosecurity zone

### 60 Definitions

In this Division—

**restricted potato biosecurity matter** means any one or more of the following—

- (a) a solanaceae plant (other than a fruit of a solanaceae plant),
- (b) any commercially produced plant (other than a solanaceae plant) including any part of any such plant,
- (c) any tuber, bulb, root, corm or rhizome (other than a potato),
- (d) any soil that has been in contact with a solanaceae plant,
- (e) any equipment that has been used in the production of a solanaceae plant,

- (f) any covering that has contained or been in contact with a solanaceae plant.

**seed potato protected area** means—

- (a) the **Central Tablelands seed potato protected area** being all land within the local government areas of Bathurst Regional, Blayney, Cabonne, Goulburn Mulwaree, Oberon, City of Orange and Upper Lachlan Shire,
- (b) the **Northern Tablelands seed potato protected area** being all land within the local government areas of Armidale Regional, Glen Innes Severn Shire and Walcha.

**Solanaceae plant** means any plant belonging to the family Solanaceae that has come into contact with soil and includes any part of any such plant.

## 61 Establishment of biosecurity zone

- (1) A biosecurity zone, to be known as the **potato biosecurity zone**, is established for all land within the State.
- (2) The potato biosecurity zone is established to manage the biosecurity risk of the following pests and diseases—
- (a) *Globodera pallida* (Pale potato cyst nematode) or *Globodera rostochiensis* (Golden potato cyst nematode),

**Note—**

*Globodera pallida* (Pale potato cyst nematode) and *Globodera rostochiensis* (Golden potato cyst nematode) are prohibited matters under Part 4 of the Act.

- (b) potato spindle tuber viroid (PSTVd),

**Note—**

The presence of potato spindle tuber viroid (PSTVd) is required to be notified under Division 2 of Part 2.

- (c) *Ralstonia solanacearum* race 3 (causal agent of bacterial wilt),

**Note—**

The presence of *Ralstonia solanacearum* race 3 (causal agent of bacterial wilt) in the seed potato protected area is required to be notified under Division 2 of Part 2.

- (d) *Spongospora subterranean* (Powdery scab).

**Note—**

The presence of *Spongospora subterranean* (Powdery scab) in the seed potato protected area is required to be notified under Division 2 of Part 2.

## 62 Regulatory measures

- (1) A person must not move any restricted potato biosecurity matter—
- (a) into the potato biosecurity zone, or

- (b) into the seed potato protected area.

**Note—**

See Division 4 of Part 4 of the *Biosecurity Order (Permitted Activities) 2019*, which sets out exceptions to this subclause.

- (2) A person must not move *Spongospora subterranean* (Powdery scab) or *Ralstonia solanacearum* race 3 (causal agent of bacterial wilt) into the seed potato protected area.

## **Division 5 Rice biosecurity zone**

### **63 Definition**

In this Division—

**rice plant** means any plant belonging to the genus *Oryza* or *Zizania* and including any part of any such plant other than—

- (a) rice flour, rice or meals containing rice that have been packaged in Australia and processed to be rendered free of micro-organisms that are capable of growing in the food in the normal conditions in which the food is held during storage and distribution, or
- (b) packaged food containing rice that has been processed by a combination of moisture with heat or pressure (or both) that has ruptured the starch granules in the rice causing the rice to absorb water and swell.

### **64 Establishment of biosecurity zone**

- (1) A biosecurity zone, to be known as the **rice biosecurity zone**, is established for all land within the following local government areas—
  - (a) Balranald,
  - (b) Berrigan,
  - (c) Carrathool,
  - (d) Edward River,
  - (e) Federation,
  - (f) City of Griffith,
  - (g) Hay,
  - (h) Leeton,
  - (i) Murray River,

(j) Murrumbidgee,

(k) Narrandera.

(2) The rice biosecurity zone is established to manage the biosecurity risk of the following pests and diseases—

(a) *Burkholderia glumae* (Panicle blight),

(b) *Gibberella fujikuroi* (Bakanae),

(c) *Lissorhoptrus oryzophilus* (Rice water weevil),

(d) (Repealed)

(e) *Pomacea canaliculata* (Golden apple snail),

(ea) *Pyricularia oryzae* (Rice blast),

(f) *Tilletia barclayana* (Kernel smut of rice),

(g) *Trogoderma granarium* (Khapra beetle),

(h) any snail of the genus *Pila* or *Pomacea*.

**Note—**

The pests and diseases set out in paragraphs (a)–(g) are prohibited matter under Part 4 of the Act.

## **65 Regulatory measures**

(1) A person must not move any of the following into the rice biosecurity zone—

(a) a rice plant,

(b) any equipment that has been used in the production of a rice plant (***used rice production equipment***),

(c) any covering that has contained or been in contact with a rice plant or used rice production equipment.

**Note—**

See Division 5 of Part 4 of the [Biosecurity Order \(Permitted Activities\) 2019](#), which sets out exceptions to this subclause.

(2) A person must not move a snail of the genus *Pila* or *Pomacea* into the rice biosecurity zone.

## Part 5 Biosecurity zones—weeds

### Division 1 Preliminary

#### 66 Definitions

In this Part—

**new infestation** of a weed on land, means an infestation that has not been notified to the local control authority.

**region** has the same meaning as in the [Local Land Services Act 2013](#).

#### 67 Exception if dealing permitted by Biosecurity Order (Permitted Activities)

- (1) A dealing by a person with biosecurity matter or a carrier that would otherwise contravene this Part is permitted if—
  - (a) the [Biosecurity Order \(Permitted Activities\) 2019](#) specifies that the dealing with the biosecurity matter or carrier can occur if specified conditions are met, and
  - (b) the person ensures that all those conditions are met with respect to the dealing.
- (2) A person who deals with a biosecurity matter or carrier in reliance on the [Biosecurity Order \(Permitted Activities\) 2017](#) must comply with all relevant conditions of that order in relation to the dealing including a condition that may require something to occur after the dealing.

### Division 2 Alligator weed biosecurity zone

#### 68 Establishment of biosecurity zone

- (1) A biosecurity zone, to be known as the **alligator weed biosecurity zone**, is established for all land within the State except land in the following regions—
  - (a) Greater Sydney,
  - (b) Hunter (but only in respect of land in the local government area of City of Lake Macquarie, City of Maitland, City of Newcastle or Port Stephens).
- (2) The alligator weed biosecurity zone is established to manage the biosecurity risk of the weed *Alternanthera philoxeroides* (Alligator weed).

#### 69 Regulatory measures

An owner or occupier of land in the alligator weed biosecurity zone on which there is the weed *Alternanthera philoxeroides* (Alligator weed) must—

- (a) if the weed is part of a new infestation of the weed on the land, notify the local control authority for the land as soon as practicable in accordance with Part 6, and

- (b) eradicate the weed or, if that is not practicable, destroy as much of the weed as is practicable and suppress the spread of any remaining weed.

### **Division 3 Bitou bush biosecurity zone**

#### **70 Establishment of biosecurity zone**

- (1) A biosecurity zone, to be known as the **bitou bush biosecurity zone**, is established for all land within the State except land within 10 kilometres of the mean high water mark of the Pacific Ocean between Cape Byron in the north and Point Perpendicular in the South.
- (2) The bitou bush biosecurity zone is established to manage the biosecurity risk of the weed *Chrysanthemoides monilifera* subsp. *rotundata* (Bitou bush).

#### **71 Regulatory measures**

An owner or occupier of land in the bitou bush biosecurity zone on which there is the weed *Chrysanthemoides monilifera* subsp. *rotundata* (Bitou bush) must—

- (a) if the weed is part of a new infestation of the weed on the land, notify the local control authority for the land as soon as practicable in accordance with Part 6, and
- (b) eradicate the weed or, if that is not practicable, destroy as much of the weed as is practicable and suppress the spread of any remaining weed.

### **Division 4 Water hyacinth biosecurity zone**

#### **72 Establishment of biosecurity zone**

- (1) A biosecurity zone, to be known as the **water hyacinth biosecurity zone**, is established for all land within the State except land in the following regions—
  - (a) Greater Sydney or North Coast,
  - (b) North West (but only land in that region that is in the local government area of Moree Plains),
  - (c) Hunter (but only land in that region that is in the local government area of City of Cessnock, City of Lake Macquarie, Mid-Coast, City of Maitland, City of Newcastle or Port Stephens),
  - (d) South East (but only land in that region that is in the local government area of Eurobodalla, Kiama, City of Shellharbour, City of Shoalhaven or City of Wollongong).
- (2) The water hyacinth biosecurity zone is established to manage the biosecurity risk of the weed *Eichhornia crassipes* (Water hyacinth).

### **73 Regulatory measures**

An owner or occupier of land in the water hyacinth biosecurity zone on which there is the weed *Eichhornia crassipes* (Water hyacinth) must—

- (a) if the weed is part of a new infestation of the weed on the land, notify the local control authority for the land as soon as practicable in accordance with Part 6, and
- (b) eradicate the weed, or if that is not practicable, destroy as much of the weed as is practicable and suppress the spread of any remaining weed.

## **Part 6 Notification**

### **74 Notifiable matters**

In this Part—

**notifiable matter** means—

- (a) a prohibited matter event, or
- (b) a biosecurity event, or
- (c) a matter that a person must notify under Part 2, 2C, 3, 4 or 5 of this Regulation.

### **75 Information required to be notified**

A person who has a biosecurity duty, or a duty under this Regulation, to notify of a notifiable matter must notify of the following—

- (a) the person's full name and contact phone number,
- (b) details of the notifiable matter,
- (c) the location of the notifiable matter including, if the notifiable matter is on a property with a property identification code, the property identification code (if this is known),
- (d) in the case of a biosecurity event, details of the significant biosecurity impact (to the extent known or suspected),
- (e) any other information reasonably requested by the person or body to whom the notification is required to be given.

### **76 Manner in which notification is to be given**

Notification is to be given—

- (a) in the case of a prohibited matter event or a biosecurity event—by immediately verbally notifying an authorised officer or in any other manner approved by the Secretary and published on the website of the Department, or

- (b) in the case of a matter required to be notified under this Regulation—in a manner approved by the Secretary and published on the website of the Department.

#### **77 Notification not required if another person has already given the required notification**

A person is not required to notify of a notifiable matter if the person knows that the required notification of the matter has already been given by another person.

## **Part 7 Biosecurity registration**

### **Division 1 General provisions regarding biosecurity registration**

#### **78 Additional grounds for refusing, suspending or cancelling registration**

The Secretary may refuse biosecurity registration to a person, refuse a renewal of biosecurity registration to a person or suspend or cancel a person's biosecurity registration on any of the following grounds—

- (a) the person has, in the reasonable opinion of the Secretary, made a statement or furnished information that is false or misleading in a material particular in connection with an application under the Act or in purported compliance with any requirement imposed by or under the Act,
- (b) the person has previously been granted biosecurity registration and that biosecurity registration was cancelled within the previous 2 years and that cancellation has not been overturned on appeal,
- (c) the person, in the reasonable opinion of the Secretary, does not have the relevant skills, knowledge or experience to manage any biosecurity risk associated with the registrable dealing authorised by, or to be authorised by, the biosecurity registration,
- (d) the biosecurity risk associated with the registrable dealing authorised by, or to be authorised by, biosecurity registration is, in the reasonable opinion of the Secretary, unacceptable.

#### **79 Additional matters to which Secretary may have regard**

The Secretary, when determining an application by a person for biosecurity registration or renewal of biosecurity registration, may have regard to the following for the purposes of making a decision about the person's suitability to be involved in a registrable dealing to be authorised by the biosecurity registration—

- (a) whether the person has the capacity to properly discharge the person's functions under the biosecurity registration,
- (b) whether the person has had biosecurity registration cancelled or suspended,
- (c) the person's history of compliance with the Act and this Regulation (or any other Act



or law).

#### **80 Deemed refusal of application**

- (1) The period within which the Secretary is required to give an applicant notice of a decision to grant or refuse biosecurity registration or a renewal of biosecurity registration before the application is taken to have been refused is 60 days after the application is made.
- (2) However, the following periods are not to be counted towards that period of 60 days—
  - (a) any period commencing from a day on which the Secretary has, in writing, requested additional information from the applicant until the day on which that information is provided,
  - (b) any period commencing from the day on which the applicant is notified in writing of a decision to require an accreditation audit of the application until the day on which the biosecurity auditor engaged to carry out the audit provides the report of the auditor's assessment to the person who required the audit.

#### **81 Application for variation of biosecurity registration**

An application to the Secretary for variation of biosecurity registration must—

- (a) be made by the holder of the biosecurity registration, and
- (b) be in a form approved by the Secretary, and
- (c) include or be accompanied by any other information or evidence that the relevant decision-maker reasonably requires to assess the application, and
- (d) be accompanied by the fee required by Schedule 5.

#### **82 Condition—notification to Secretary**

- (1) It is a condition of registration that a registered entity must notify the Secretary of a change to any of the following within 7 days after the change occurs—
  - (a) the contact details of the registered entity,
  - (b) the contact details of a person in charge of animals (other than bees) of the registered entity if that person is different from the registered entity,
  - (c) the location of enclosures (including yards and paddocks) used to accommodate animals (other than bees) of the registered entity.
- (2) In this clause, **animal** of a registered entity means an animal in respect of which the registered entity holds (or is required to hold) a biosecurity registration.

## **Division 2 Conditions of registration—bees**

### **83 Requirements of Division are conditions of registration**

A requirement set out in this Division in respect of a registered entity is a condition of the registered entity's biosecurity registration.

### **84 Requirement as to hives**

- (1) A registered entity that is a beekeeper must not keep bees in a hive other than a **frame hive**, being—
  - (a) a hive containing only movable frames which may be separately and readily removed for examination, or
  - (b) a hive containing—
    - (i) fixed frames in the honey-super boxes of the hive, and
    - (ii) in the broodbox (being the bottom box of an active hive) of the hive, movable frames of the kind referred to in paragraph (a), and
    - (iii) a queen excluder which is fitted immediately above the broodbox of the hive in order to prevent the queen from gaining access to the honey-super boxes of the hive.
- (2) The registered entity must ensure that each hive of the registered entity is identified with the registered entity's registration number and complies with any other conditions with respect to hives to which that registration is subject.

### **85 Records and notification**

- (1) A registered entity that is a beekeeper must keep a written record (which may be in electronic form) of the following and retain that record in a readily accessible form for a period of 5 years—
  - (a) if a hive of the registered entity that contains bees is moved from one location to another—
    - (i) the date on which that occurred, and
    - (ii) details of each location, and
    - (iii) the number of hives moved, and
    - (iv) the name of the person who moved the hive,
  - (b) if a hive of the registered entity that contains bees has been lost, stolen or destroyed—

- (i) the date on which that occurred, and
  - (ii) the number of hives to which this occurred.
- (2) If a registered entity that is a beekeeper disposes (including by sale) of a queen bee or colony of bees to another person, the registered entity must keep a written record (which may be in electronic form) of the following and retain that record in a readily accessible form for a period of 5 years—
  - (a) the date on which the disposal occurred,
  - (b) the number of queen bees or colonies of bees disposed of,
  - (c) the method of disposal (for example, by sale or gift),
  - (d) the name, postal address and beekeeper registration number of the person to whom the queen bee or colony of bees was disposed.

### **Division 3 Conditions of registration—non-indigenous animals**

#### **86 Definition**

In this Division, **animal** of a registered entity means a non-indigenous animal specified in clause 2 of Schedule 4 to the Act in respect of which the registered entity holds (or is required to hold) biosecurity registration.

#### **87 Requirements of Division are conditions of registration**

A requirement set out in this Division in respect of a registered entity is a condition of the registered entity's biosecurity registration.

#### **88 Keeping animals in captivity**

- (1) A registered entity must not release an animal of the registered entity from captivity or otherwise permit the escape of any such animal.
- (2) A registered entity must, within 24 hours of first becoming aware of the theft, release or escape of an animal of the registered entity, notify the Secretary of the following—
  - (a) when the animal was stolen or released or escaped,
  - (b) whether the animal has been recovered,
  - (c) the identification details of the animal including any microchip or ear tag number of the animal.
- (3) A registered entity must ensure that, at least every 7 days, an inspection is carried out to ensure no animals of the registered entity are missing and a record of each inspection is kept in a readily accessible form and that record is made available to the Secretary or an authorised officer on request.

## **89 Reporting to Secretary**

A registered entity must, if requested to do so by notice in writing from the Secretary, provide the Secretary within the time specified in the notice with a written report setting out the following—

- (a) the number, sex, age and species of animals held by the registered entity at the start of the period specified in the notice,
- (b) the number, sex, age and species of animals transferred from and to the registered entity during that period,
- (c) the names of the persons from and to whom the animals were transferred and if available the registration number of those persons,
- (d) the number, sex, age and species of animals born to animals held by the registered entity during that period,
- (e) the number, sex, age and species of animals held by the registered entity that died during that period,
- (f) the microchip or ear tag number for each animal listed in the report (including those animals that died during the period),
- (g) any other information reasonably requested by the Secretary in the notice.

## **90 Permanent identification**

- (1) A registered entity must ensure that each animal (including any animal born when the mother of the animal is held by the registered entity) is permanently identified using a microchip or an ear tag.
- (2) A registered entity must ensure that any microchip used to permanently identify an animal of the registered entity is inserted under the skin of the animal, between the shoulder blades and to the left of the spine or is inserted in any other manner authorised by the Zoo and Aquarium Association or a breed society relevant to the animal.
- (3) A registered entity must ensure that any ear tag used to permanently identify an animal of the registered entity is a radio frequency type ear tag that has a visible unique identification number.
- (4) A registered entity must provide to the Secretary evidence that an animal of the registered entity is permanently identified as follows—
  - (a) in the case of a microchip—this must be in the form of a certificate from a veterinary practitioner that certifies that a functioning microchip with a specified number has been implanted at a specified location in the animal,

(b) in the case of an ear tag—this must be—

(i) in the form of a certificate from a veterinary practitioner that certifies that an ear tag with a specified number has been attached to the animal, or

(ii) in any other form approved by the Secretary.

(5) A registered entity must provide the information about an animal to the Secretary under this clause—

(a) if the animal was permanently identified before the registered entity was granted biosecurity registration—within 21 days after the registration is granted, or

(b) in any other case—within 7 days after the animal is permanently identified or is acquired by the registered entity (whichever occurs later).

## **Part 8 Accreditation of biosecurity certifiers**

### **91 Definition**

In this Part—

**accreditation** means accreditation as a biosecurity certifier.

### **92 Critical non-compliance**

Each of the following is critical non-compliance by an accredited person—

(a) a biosecurity certificate issued by the person is incorrect in a material particular,

(b) the person has interfered with a trap or other monitoring device in contravention of the person's accreditation,

(c) the person has refused to participate in or assist in an audit of the person carried out by a biosecurity auditor.

### **93 Additional grounds for refusing, suspending or cancelling accreditation**

An accreditation authority may refuse to grant accreditation to a person, refuse to grant a renewal of accreditation to a person or suspend or cancel a person's accreditation on any of the following grounds—

(a) the person has, in the reasonable opinion of the accreditation authority, made a statement or furnished information that is false or misleading in a material particular in connection with an application under the Act or in purported compliance with any requirement imposed by or under the Act,

(b) the person has previously been accredited and that accreditation was cancelled within the previous 2 years and that cancellation has not been overturned on appeal.

#### **94 Additional matters to which accreditation authority may have regard**

An accreditation authority, when determining an application for accreditation or renewal of accreditation or determining whether to suspend or cancel accreditation, may have regard to the following for the purposes of making a decision about the person's suitability to be granted accreditation—

- (a) whether the person has the capacity to properly discharge the person's functions as a biosecurity certifier,
- (b) whether the person has had an accreditation cancelled or suspended,
- (c) the person's history of compliance with the Act and this Regulation (or any other Act or law).

#### **95 Deemed refusal of application**

- (1) The period within which an accreditation authority is required to give an applicant notice of a decision to grant or refuse accreditation or a renewal of accreditation before the application is taken to have been refused is 60 days after the application is made.
- (2) However, the following periods are not to be counted towards that period of 60 days—
  - (a) any period commencing on the day on which the accreditation authority has, in writing, requested additional information from the applicant until the day on which that information is provided,
  - (b) any period commencing on the day on which the applicant is notified in writing of a decision to require an accreditation audit of the application until the day on which the biosecurity auditor engaged to carry out the audit provides the report of the auditor's assessment to the person who required the audit.

#### **96 Application for variation of accreditation**

An application to an accreditation authority for variation of accreditation must—

- (a) be made by the holder of the accreditation, and
- (b) be in a form approved by the accreditation authority, and
- (c) include or be accompanied by any other information or evidence that the accreditation authority reasonably requires to assess the application, and
- (d) be accompanied by any fee required, being—
  - (i) if the accreditation authority is the Secretary—the amount provided for by Schedule 5, or
  - (ii) in any other case—the amount required by the accreditation authority.

## **97 Conditions of accreditation**

It is a condition of a person's accreditation that the person must notify the Secretary of a change to any of the following within 7 days after the change occurs—

- (a) the contact details of the person,
- (b) the location of the land and buildings in which the person principally carries on business as a biosecurity certifier.

## **Part 9 Appointment of biosecurity auditors**

### **98 Definition**

In this Part—

**appointment** means appointment as a biosecurity auditor.

### **99 Additional grounds for refusing, suspending or cancelling appointment**

An accreditation authority may refuse appointment to a person, refuse to renew appointment to a person or suspend or cancel a person's appointment on any of the following grounds—

- (a) the person has, in the reasonable opinion of the accreditation authority, made a statement or furnished information that is false or misleading in a material particular in connection with an application under the Act or in purported compliance with any requirement imposed by or under the Act,
- (b) the person has previously been appointed and that appointment was cancelled within the previous 2 years and that cancellation has not been overturned on appeal.

### **100 Additional matters to which accreditation authority may have regard**

An accreditation authority, when determining an application for appointment or renewal of appointment or determining whether to suspend or cancel appointment, may have regard to the following for the purposes of making a decision about the person's suitability to be granted appointment—

- (a) whether the person has the capacity to properly discharge the person's functions as a biosecurity auditor,
- (b) whether the person has had an appointment cancelled or suspended,
- (c) the person's history of compliance with the Act and this Regulation (or any other Act or law).

### **101 Deemed refusal of application**

- (1) The period within which an accreditation authority is required to give an applicant

notice of a decision to grant or refuse appointment or a renewal of appointment before the application is taken to have been refused is 60 days after the application is made.

- (2) However, the following periods are not to be counted towards that period of 60 days—
- (a) any period commencing from a day on which the accreditation authority has, in writing, requested additional information from the applicant until the day on which that information is provided,
  - (b) any period commencing from the day on which the applicant is notified in writing of a decision to require an accreditation audit of the application until the day on which the biosecurity auditor engaged to carry out the audit provides the report of the auditor's assessment to the person who required the audit.

## **102 Application for variation of appointment**

An application to an accreditation authority for variation of appointment must—

- (a) be made by the holder of the appointment, and
- (b) be in a form approved by the accreditation authority, and
- (c) include or be accompanied by any other information or evidence that the accreditation authority reasonably requires to assess the application, and
- (d) be accompanied by any fee required, being—
  - (i) if the accreditation authority is the Secretary—the amount provided for by Schedule 5, or
  - (ii) in any other case—the amount required by the accreditation authority.

## **Part 10 Approval of accreditation authorities**

### **103 Definition**

In this Part—

**approval** means approval to exercise the functions of an accreditation authority.

### **104 Additional grounds for refusing, suspending or cancelling approval**

The Secretary may refuse to grant approval to a person, refuse to grant a renewal of approval to a person or suspend or cancel a person's approval on any of the following grounds—

- (a) the person has, in the reasonable opinion of the Secretary, made a statement or furnished information that is false or misleading in a material particular in connection with an application under the Act or in purported compliance with any requirement imposed by or under the Act,



- (b) the person has previously been granted an approval and that approval was cancelled within the previous 2 years and that cancellation has not been overturned on appeal,
- (c) the person, in the reasonable opinion of the Secretary, does not have the relevant skills, knowledge or experience to exercise all the functions of an accreditation authority.

#### **105 Additional matters to which Secretary may have regard**

The Secretary, when determining an application by a person for approval or renewal of approval or determining whether to suspend or cancel approval, may have regard to the following for the purposes of making a decision about the person's suitability to be granted approval—

- (a) whether the person has the capacity to properly discharge the person's functions as an accreditation authority,
- (b) whether the person has had an approval cancelled or suspended,
- (c) the person's history of compliance with the Act and this Regulation (or any other Act or law).

#### **106 Deemed refusal of application**

- (1) The period within which the Secretary is required to give an applicant notice of a decision to grant or refuse approval or a renewal of approval before the application is taken to have been refused is 60 days after the application is made.
- (2) However, the following periods are not to be counted towards that period of 60 days—
  - (a) any period commencing from a day on which the Secretary has, in writing, requested additional information from the applicant until the day on which that information is provided,
  - (b) any period commencing from the day on which the applicant is notified in writing of a decision to require an accreditation audit of the application until the day on which the biosecurity auditor engaged to carry out the audit provides the report of the auditor's assessment to the person who required the audit.

#### **107 Application for variation of approval**

An application to the Secretary for variation of approval must—

- (a) be made by the holder of the approval, and
- (b) be in a form approved by the Secretary, and
- (c) include or be accompanied by any other information or evidence that the Secretary reasonably requires to assess the application, and

- (d) be accompanied by the fee required by Schedule 5.

## **Part 11 Permits**

### **108 Additional grounds for refusing, suspending or cancelling permit**

A relevant decision-maker may refuse to grant a permit to a person, refuse to grant a renewal of a permit to a person or suspend or cancel a person's permit on any of the following grounds—

- (a) the person has, in the reasonable opinion of the relevant decision-maker, made a statement or furnished information that is false or misleading in a material particular in connection with an application under the Act or in purported compliance with any requirement imposed by or under the Act,
- (b) the person has previously been granted a permit and that permit was cancelled within the previous 2 years and that cancellation has not been overturned on appeal,
- (c) the person, in the reasonable opinion of the relevant decision-maker, does not have the relevant skills, knowledge or experience to manage any biosecurity risk associated with the conduct authorised by, or to be authorised by, the permit,
- (d) the biosecurity risk associated with the conduct authorised by, or to be authorised by, the permit is, in the reasonable opinion of the relevant decision-maker, unacceptable.

### **109 Additional matters to which relevant decision-maker may have regard**

A relevant decision-maker, when determining an application by a person for a permit or renewal of a permit or determining whether to suspend or cancel a permit, may have regard to the following for the purposes of making a decision about the person's suitability to engage in conduct to be authorised by the permit—

- (a) whether the person has the capacity to properly discharge the person's functions under the permit,
- (b) whether the person has had a permit cancelled or suspended,
- (c) the person's history of compliance with the Act and this Regulation (or any other Act or law).

### **110 Deemed refusal of application**

- (1) The period within which a relevant decision-maker is required to give an applicant notice of a decision to grant or refuse a permit or a renewal of a permit before the application is taken to have been refused is 60 days after the application is made.
- (2) However, the following periods are not to be counted towards that period of 60 days—
  - (a) any period commencing from a day on which the relevant decision-maker has, in

writing, requested additional information from the applicant until the day on which that information is provided,

- (b) any period commencing from the day on which the applicant is notified in writing of a decision to require an accreditation audit of the application until the day on which the biosecurity auditor engaged to carry out the audit provides the report of the auditor's assessment to the person who required the audit.

### **111 Application for variation of permit**

An application to a relevant decision-maker for variation of a permit must—

- (a) be made by the holder of the permit, and
- (b) be in a form approved by the Secretary, and
- (c) include or be accompanied by any other information or evidence that the relevant decision-maker reasonably requires to assess the application, and
- (d) be accompanied by the fee required by Schedule 5.

## **Part 12 Miscellaneous**

### **112 Offences with respect to labels**

- (1) A person, who is required by or under the Act to label or identify any matter, must ensure that the label or identifier is a complying label or complying identifier.

Maximum penalty—\$11,000.

- (2) A person must not, without reasonable excuse, do anything that causes a label or identifier referred to in subclause (1) to no longer be a complying label or complying identifier.

Maximum penalty—\$11,000.

- (3) A label or identifier is a **complying label** or **complying identifier** if—

- (a) the label or identifier is attached securely in a position that is clearly visible, and
- (b) any information on the label or identifier is readily identifiable.

### **113 Delegation by Chief Veterinary Officer**

The Chief Veterinary Officer may delegate the exercise of any function of the Chief Veterinary Officer under this Regulation (other than this power of delegation) to any person employed in the Department.

## **Schedule 1 Pests and diseases required to be notified**

(Clause 7)

### **Part 1 Animal pests and diseases**

*Anaplasma marginale* (Anaplasmosis)

*Ascosphaera apis* (Chalkbrood)

Australian bat lyssavirus in bats

Avian influenza

*Babesia bigemina* (Babesiosis)

*Babesia bovis* (Babesiosis)

*Braula coeca* (Braula fly/Bee louse)

*Brucella suis* (Brucellosis)

*Cysticercus bovis* (Bovine cysticercosis)

*Cysticercus cellulosae* (Porcine cysticercosis)

Chlamydiosis in poultry and other birds

Duck virus enteritis/Duck plague

Duck virus hepatitis

Egg drop syndrome (EDS 76)

*Ehrlichia canis* (Ehrlichiosis)

Enzootic bovine leucosis

Equine herpesvirus 1 (abortigenic strain)

Equine infectious anaemia

Equine viral arteritis

Footrot in sheep and goats

Infectious laryngotracheitis

Influenza pandemic A(H1N1)pdm09

Leishmaniosis

*Melissococcus plutonius* (European foulbrood)

*Mycobacterium avium* (Avian tuberculosis)

*Mycoplasma iowae*

*Nosema apis* and *Nosema ceranae* (Nosemosis)

*Paenibacillus larvae* (American foulbrood)

Paratuberculosis (Johne's disease)

Pigeon paramyxovirus

Porcine myocarditis (Bungowannah virus infection)

*Pseudogymnoascus destructans* in bats (White Nose Syndrome)

*Rhipicephalus (Boophilus) australis* (Cattle tick)

*Rhipicephalus (Boophilus) microplus* (Cattle tick)

*Salmonella* Enteritidis

*Salmonella* Pullorum

Seneca Valley virus (Senecavirus A)

*Tritrichomonas foetus* (Trichomoniasis)

West Nile Virus infection – clinical

## **Part 2 Aquatic pests and diseases**

*Acanthogobius flavimanus* (Yellowfin goby)

*Aeromonas salmonicida*—atypical strains (Goldfish ulcer disease)

*Amniataba percoides* (Banded Grunter)

*Batrachochytrium dendrobatidis* (Chytridiomycosis in amphibians)

*Betanodavirus* (Viral encephalopathy and retinopathy, VER)

*Bonamia* spp. all species except *Bonamia ostreae* & *B. exitiosa* (Bonamia)

*Carcinus maenas* (European green crab)

*Caulerpa taxifolia* (Caulerpa)

Epizootic haematopoietic necrosis of fish (EHN virus)

Epizootic ulcerative syndrome of fish (infection with *Aphanomyces invadans*)

Gill-associated virus disease (GAV)

*Grateloupia turuturu* (Red macroalga)

Infectious hypodermal and haematopoietic necrosis of crustaceans

*Maoricolpus roseus* (New Zealand Screw Shell)

*Marteilia sydneyi* (QX disease)

*Misgurnus anguillicaudatus* (Weatherloach/Oriental Weatherloach)

*Mya japonica* (Soft Shelled Clam)

*Oreochromis mossambicus* (Tilapia/Mozambique Mouthbrooder)

Ostreid herpesvirus- 1 $\mu$  variant—OsHV-1  $\mu$ var (OSHV1) that causes Pacific Oyster Mortality Syndrome (POMS)

*Perca fluviatilis* (Redfin Perch)

*Perkinsus olseni* (Perkinsosis)

*Phalloceros caudimaculatus* (Speckled Mosquitofish/Dusky Millions Fish)

*Sabella spallanzanii* (European Fan Worm)

Thelohanziosis of crustaceans

*Tridentiger trigonocephalus* (Trident Goby/Chameleon Goby/Striped Goby/Japanese Goby)

*Undaria pinnatifida* (Japanese Seaweed/Wakame)

Winter mortality (of Sydney Rock Oysters)

### **Part 3 Invasive species**

*Hylotrupes bajulus* (European house borer)

### **Part 4 Plant pests and diseases**

*Austracris guttulosa* (Spur-throated locust)

*Cantareus apertus* (Green snail)

*Chortoicetes terminifera* (Australian plague locust)

Citrus tristeza virus (but limited to orange stem pitting strains only)

*Locusta migratoria* (Migratory locust)

*Marchalina hellenica* (Giant pine scale)

Melon necrotic spot carmovirus (Melon necrotic spot virus)

*Panonychus citri* (Citrus red mite)

Potato spindle tuber viroid (PSTVd)

*Protopulvinaria pyriformis* (Pyriform scale)

*Pseudomonas syringae* pv. *actinidae* (Psa)

*Ralstonia solanacearum* race 3 (causal agent of bacterial wilt) but only in a seed potato protected area within the meaning of Division 4 of Part 4 of this Regulation

*Spongospora subterranea* (Powdery scab) but only in a seed potato protected area within the meaning of Division 4 of Part 4 of this Regulation

Tomato yellow leaf curl virus (TYLCV)

*Urocystis cepulae* (Onion smut)

## **Schedule 2 Mediterranean fruit fly host plants**

(Clause 26)

*Acca sellowiana* (Feijoa)

*Actinidia deliciosa* (Kiwifruit)

*Anacardium occidentale* L. (Cashew Apple)

*Annona cherimolia* (Cherimoya)

*Annona muricata* (Soursop)

*Annona squamosa* (Sweetsop/Sugar apple)

*Annona squamosa* L. x *A. cherimolia* (Custard apple)

*Artocarpus altilis* (Breadfruit)

*Artocarpus heterophyllus* (Jackfruit)

*Averrhoa carambola* L. (Carambola/Starfruit)

*Capsicum annuum* (Capsicum/Chilli)

*Carica papaya* (Papaya/Pawpaw)

*Carica pentagona* (Babaco)

*Casimiroa edulis* (Casimiroa/White sapote)

*Chrysophyllum cainito* L. (Caimito/Star apple)

*Citrus aurantiifolia*, *Citrus latifolia*, *Citrus reticulata* var. *austera* (Lime)

*Citrus aurantium*, *Citrus sinensis* (Orange)

*Citrus grandis*, *Citrus maxima* (Pummelo/Pomelo/Shaddock)

*Citrus japonica* (Cumquat)

*Citrus medica* L. (Citron)

*Citrus meyeri*, *Citrus limon* x *C. chinense* (Lemon)

*Citrus paradisi* (Grapefruit)

*Citrus reticulata* (Mandarin)

*Citrus reticulata* x *C. paradisi* (Tangelo)

*Coffea* spp. (Coffee berry)

*Cydonia oblonga* (Quince)

*Cyphomandra betacea* (Tamarillo)

*Diospyros digyna* (Black sapote)

*Diospyros kaki* (Persimmon)

*Diospyros virginiana* (Common persimmon)

*Durio zibethinus* (Durian)

*Eriobotrya japonica* (Loquat)

*Eugenia braziliensis* (Brazil cherry/Grumichama)

*Eugenia jambos* (Rose apple)

*Euphoria longan* (Longan)

*Ficus carica* L. (Fig)

*Garcinia mangostana* (Mangosteen)

*Hylocereus undatus* (Dragon fruit/Than lung)

*Litchii chinensis* (Lychee/Litchi)

*Lycopersicon esculentum* (Tomato)

*Malpighia glabra* L. (Acerola)

*Malpighia glabra* L. x *M. punicifolia* L. (Barbados cherry)

*Malus domestica* (Apple)

*Malus sylvestris* (Crab apple)

*Mangifera indica* (Mango)

*Manilkara zapota* L. (Sapodilla)

*Mespilus germanica* (syn *Crataegus germanica*) (Medlar)

*Monstera deliciosa* (Monstera)



*Morus nigra* L. (Mulberry)

*Musa* spp. (Banana)

*Myrciaria cauliflora* (Jaboticaba)

*Nephelium lappaceum* L. (Rambutan)

*Olea europaea* (Olive)

*Opuntia stricta* or *O. ficus indica* (Prickly pear)

*Passiflora edulis* (Passionfruit)

*Passiflora quadrangularis* L. (Granadilla)

*Persea americana* (Avocado)

*Phoenix dactylifera* L. (Date)

*Physalis peruviana* L. (Cape gooseberry)

*Pouteria caimito* (Abiu)

*Prunus armeniaca* L. (Apricot)

*Prunus avium* L. (Cherry—sweet)

*Prunus cerasus* L. (Cherry—sour)

*Prunus domestica* (Plum)

*Prunus domestica* x *P. armeniaca* (Plumcot)

*Prunus insitita* (Damson plum)

*Prunus nucipersica* (Peacharine)

*Prunus persica* (Peach)

*Prunus persica* var. *nectarina* (Nectarine)

*Prunus salicina* (Japanese plum)

*Psidium* spp. (Guava)

*Punica granatum* L. (Pomegranate)

*Pyrus communis* L. (Pear)

*Pyrus pyrifolia* var. *culta* (Nashi)

*Rollinia deliciosa* (Rollinia)

*Rubus fruticosus* L. (Blackberry)

*Rubus idaeus* L. (Raspberry)

*Rubus loganobaccus* (Loganberry)

*Rubus ursinus* x *R. idaeus* (Boysenberry)

*Sandoricum indicum* (Santol)

*Solanum melongena* L. (Eggplant)

*Solanum muricatum* Aiton (Pepino)

*Spondias dulcis* (Jew plum)

*Spondias mombin* (Hog plum)

*Synsepalum dulcificum* (Miracle fruit)

*Syzygium samarangense* (Wax jambu)

*Vaccinium corymbosum* L. (Blueberry)

*Vitis* spp. (Grape)

*Ziziphus mauritania* (Jujube)

## **Schedule 3 Weeds**

(Clause 33)

*Alternanthera philoxeroides* (Alligator weed)

*Anredera cordifolia* (Madeira vine)

*Asparagus aethiopicus*, *A. africanus*, *A. asparagoides* Western Cape form\*, *A. declinatus*, *A. plumosus*, *A. scandens* (except *A. officinalis*, *A. racemosus*) (Asparagus weeds)

*Asparagus asparagoides* (Bridal creeper)

*Asparagus densiflorus* (Meyersii/Foxtail fern)

*Cabomba caroliniana* (Cabomba)

*Chrysanthemoides monilifera* (Bitou bush/Boneseed)

*Dolichandra unguis-cati* (Cat's claw creeper)

*Eichhornia crassipes* (Water hyacinth)

*Genista monspessulana*, *G. linifolia*, *Cytisus scoparius* (Brooms)

*Hymenachne amplexicaulis* (Hymenachne)

*Jatropha gossypifolia* (Bellyache bush)

*Lantana camara* (Lantana)

*Lycium ferocissimum* (African boxthorn)

*Nassella neesiana* (Chilean needle grass)

*Nassella trichotoma* (Serrated tussock)

*Opuntia* spp., *Cylindropuntia* spp., *Austrocylindropuntia* spp. (except *O. ficus-indica*) (Opuntoid cacti)

*Parkinsonia aculeata* (Parkinsonia)

*Prosopis* spp. (Mesquite)

*Rubus fruticosus* agg. (Blackberry except the varieties Chester Thornless, Dirksen Thornless, Loch Ness, Silvan, Black Satin, Murrindindi, Smooth Stem, Thornfree and Chehalem)

*Sagittaria platyphylla* (Sagittaria)

*Salix* spp. except *S. babylonica*, *S. X calodendron* and *S. X reichardtiji* (Willows except weeping willows, pussy willow and sterile pussy willow)

*Salvinia molesta* (Salvinia)

*Senecio madagascariensis* (Fireweed)

*Solanum elaeagnifolium* (Silverleaf nightshade)

*Tamarix aphylla* (Athele pine)

*Ulex europaeus* (Gorse)

## Schedule 4 Ingredients in stock food—maximum amounts

(Clause 40)

Column 1	Column 2	Column 3
Ingredient	Kind of stock food	Maximum permitted amount (to be calculated using the dry weight of the stock food on a 12% moisture basis)
Clenbuterol	All stock foods	Nil
Cadmium	Stock food for cattle, sheep, goats or fish	1.0 gram per tonne
Cadmium	Stock food for animals other than cattle, sheep, goats or fish	0.5 grams per tonne
Lead	All stock foods	0.2 grams per tonne
Mercury	Fish meal for pigs or poultry	0.4 grams per tonne
Mercury	Stock food other than fish meal for pigs or poultry	0.02 grams per tonne

Aflatoxin B1	Grain and crushed grain	0.01 grams per tonne
Aflatoxin B1	Manufactured stock foods for beef cattle and sheep	0.05 grams per tonne
Aflatoxin B1	Manufactured stock foods for weaner or suckling pigs	0.01 grams per tonne
Aflatoxin B1	Manufactured stock foods for pigs other than weaner or suckling pigs	0.05 grams per tonne
Aflatoxin B1	Manufactured stock foods for dairy cows	0.02 grams per tonne
Aflatoxin B1	Manufactured stock foods for ducks	0.001 grams per tonne
Aflatoxin B1	Manufactured stock foods for layer chickens	0.02 grams per tonne
Aflatoxin B1	Manufactured stock foods for poultry other than ducks or layer chickens	0.01 grams per tonne
<i>Echium plantagineum</i> (Paterson's curse)	Grain	100 seeds per kilogram
<i>Heliotropium europaeum</i> (Common heliotrope), and <i>Heliotropium amplexicaule</i> (Blue heliotrope)	Grain	20 seeds of either species, or of a combination of both species, per kilogram
<i>Ricinus communis</i> (Castor-oil plant)	All stock foods	Nil seeds or plant parts

## Schedule 5 Fees

### 1 Fees generally

- (1) The fees set out in this Schedule are payable with respect to the matters set out in this Schedule.
- (2) A fee is payable before the function or service to which the fee relates is exercised or provided or at such time, and in accordance with such conditions, as the Secretary may agree with the person paying the fee.

#### Table of fees

Provision of Act	Description	\$
Section 159(4)	Application for the grant of biosecurity registration	720

Section 162(3)(b)	Application for variation of biosecurity registration	300
Section 163(4)	Application for the renewal of biosecurity registration	420
Section 184A(1)	Preparation of a biosecurity certificate by an authorised officer	200
Section 196(5)(a)	Application to the Secretary for accreditation as biosecurity certifier	750
Section 200(5)(a)	Application to the Secretary for renewal of accreditation as biosecurity certifier	160
Section 244(5)(a)	Application to the Secretary for appointment as biosecurity auditor	1,000
Section 248(5)	Application to the Secretary for renewal of appointment as biosecurity auditor	1,000
Section 263(3)	Application for approval to exercise functions of accreditation authority	1,500
Section 267(3)	Application for renewal of approval to exercise functions of accreditation authority	1,500
Section 341(3)	Application for permit	720
Clause 28(2) of Schedule 7	Application for certificate from local control authority as to weed control notices, expenses and charges on land	200

## Schedule 6 Penalty notice offences

For the purposes of section 303 of the Act—

- (a) each offence specified in this Schedule is an offence for which a penalty notice may be issued, and
- (b) the amount payable under any such penalty notice is the amount specified in this Schedule for the offence.

Column 1	Column 2
Provision	Penalty
<b>Offences under the Act</b>	
Section 23	\$1,000
Section 25	\$1,000
Section 28	\$2,000
Section 32	\$2,000
Section 37	\$2,000
Section 40	\$1,000

Section 58	\$2,000
Section 75	\$2,000
Section 87	\$1,000
Section 116	\$1,000
Section 138	\$1,000
Section 145	\$1,000
Section 152	\$1,000
Section 154	\$1,000
Section 179	\$1,000
Section 187	\$2,000
Section 188(1)	\$2,000
Section 188(2)	\$2,000
Section 189	\$2,000
Section 190(1)	\$2,000
Section 190(2)	\$2,000
Section 211	\$1,000
Section 212	\$2,000
Section 238	\$2,000
Section 257	\$1,000
Section 258	\$2,000
Section 276	\$1,000
Section 293	\$2,000
Section 298	\$2,000
Section 301	\$2,000
Section 308	\$2,000
Section 340(1)	\$1,000
Section 340(2)	\$1,000
Section 364	\$500