

Australian Capital Territory

Biosecurity Act 2023

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Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

About this republication

The republished law

This is a republication of the *Biosecurity Act 2023* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 26 November 2025. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 26 November 2025.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

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Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is $160 for an individual and $810 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

Biosecurity Act 2023

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Australian Capital Territory

Biosecurity Act 2023

An Act to manage biosecurity risk, and for other purposes

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Part 1 Preliminary

Division 1.1 Introduction

1 Name of Act

This Act is the *Biosecurity Act 2023*.

3 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (***signpost definitions***) to other terms defined elsewhere.

For example, the signpost definition '***native animal***—see the *Nature Conservation Act 2014*, section 12.' means that the term 'native animal' is defined in that section and the definition applies to this Act.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

4 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

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5 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 *Criminal Code*

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg ***conduct***, ***intention***, ***negligent***, ***recklessness*** and ***strict liability***).

Note 2 *Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

6 Objects of Act

The main objects of this Act are—

(a) to manage biosecurity risks arising from—

(i) biosecurity matter; and

(ii) dealings with biosecurity matter or carriers; and

(iii) other activities involving biosecurity matter or carriers; and

(b) to promote biosecurity as a shared responsibility between government, industry and the community; and

(c) to provide a flexible and responsive framework for the effective management of pests, diseases, contaminants and other biosecurity matter that may have an adverse effect on the environment, the economy or the community; and

(d) to provide a framework for risk-based decision-making in relation to biosecurity; and

(e) to give effect to intergovernmental biosecurity agreements to which the Territory is a party; and

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(f) to facilitate trade by ensuring that biosecurity requirements in other jurisdictions are met.

7 Application of Act—emergency services and police

(1) This Act does not apply to the exercise or purported exercise of a function by—

(a) a relevant person under the *Emergencies Act 2004*, for the purpose of protecting life, property or the environment; or

(b) a police officer, for the purpose of protecting life or property.

(2) In this section:

emergency controller—see the *Emergencies Act 2004*, dictionary.

member, of an emergency service—see the *Emergencies Act 2004*, dictionary.

relevant person means—

(a) an emergency controller; or

(b) a member of an emergency service; or

(c) any other person under the control of—

(i) an emergency controller; or

(ii) the chief officer (ambulance service); or

(iii) the chief officer (fire and rescue service); or

(iv) the chief officer (rural fire service); or

(v) the chief officer (SES); or

(d) a police officer.

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Division 1.2 Important concepts

8 Meaning of *biosecurity matter*

(1) In this Act:

biosecurity matter means any of the following:

(a) an animal, plant or other living thing, including an animal product, plant product or product of another living thing;

(b) a disease agent that can cause disease in—

(i) an animal, plant or other living thing; or

(ii) a human by way of transmission from a non-human host;

(c) a contaminant;

(d) anything else prescribed by regulation.

(2) A reference to particular biosecurity matter—

(a) by a common name does not limit any reference to the biosecurity matter by its scientific name; and

(b) if the biosecurity matter has a life cycle—includes a reference to all stages of the life cycle of the biosecurity matter.

(3) In this section:

living thing—

(a) includes part of a living thing; but

(b) does not include a human.

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9 Meaning of *carrier*

In this Act:

carrier means anything (including a human) that has, or is capable of having, biosecurity matter on it, attached to it or contained in it.

Note A ***carrier*** does not include a human for certain provisions (see s 231).

10 Meaning of *deal* with biosecurity matter or carrier

In this Act:

deal, with biosecurity matter or a carrier—

(a) means the following:

(i) keep or manage the biosecurity matter or carrier;

(ii) have possession of the biosecurity matter or carrier;

(iii) produce, manufacture or supply the biosecurity matter or carrier;

(iv) import the biosecurity matter or carrier;

(v) acquire the biosecurity matter or carrier;

(vi) buy or sell the biosecurity matter or carrier;

(vii) dispose of or destroy the biosecurity matter or carrier;

(viii) mark, brand, tag or attach a device or other identifier to the biosecurity matter or carrier to identify or trace the biosecurity matter or carrier;

(ix) move the biosecurity matter or carrier;

(x) release the biosecurity matter or carrier from captivity into the environment;

(xi) use or treat the biosecurity matter or carrier for any purpose;

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(xii) diagnose the biosecurity matter or carrier;

(xiii) breed, propagate, grow, raise, feed, clone or culture the biosecurity matter or carrier;

(xiv) experiment with the biosecurity matter or carrier;

(xv) display the biosecurity matter or carrier;

(xvi) enter into an agreement or arrangement to deal, or for another person to deal, with the biosecurity matter or carrier;

(xvii) cause or permit a dealing with the biosecurity matter or carrier;

(xviii) anything else prescribed by regulation; but

(b) does not include a circumstance prescribed by regulation.

11 Meaning of *pest*

(1) In this Act:

pest—

(a) means an animal or plant that has, or is likely to have, an adverse effect on the environment, the economy or the community, including by—

(i) competing with other organisms for resources including food, water, nutrients, habitat or sunlight; or

(ii) destroying or damaging the habitat of other organisms; or

(iii) preying or feeding on other organisms; or

(iv) transmitting disease to other organisms; or

(v) causing harm to other organisms because of toxicity or disturbance; or

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(vi) reducing the productivity of any primary industry or the value of any primary produce; or

(vii) damaging infrastructure; or

(viii) reducing the amenity or aesthetic value of premises; or

(ix) harming or reducing biodiversity; or

(x) doing anything else, or having any other effect, prescribed by regulation; and

(b) includes a declared pest.

(2) The Minister may declare an animal or a plant to be a pest (a ***declared pest***).

(3) A declaration is a notifiable instrument.

12 Meaning of *biosecurity impact*

(1) In this Act:

biosecurity impact means an adverse effect on the environment, the economy or the community that—

(a) arises from, or has the potential to arise from, biosecurity matter or a carrier, or a dealing with biosecurity matter or a carrier; and

(b) is related to at least 1 of the following:

(i) the introduction, presence, spread or increase of a pest in any part of the ACT;

(ii) the introduction, presence, spread or increase of a disease or disease agent in any part of the ACT;

(iii) an animal, plant, animal product or plant product becoming contaminated;

(iv) any other thing or circumstance prescribed by regulation.

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(2) In this section:

contaminated, for an animal, plant, animal product or plant product, means the animal, plant or product contains a contaminant that makes it, or is likely to make it—

(a) unfit or unsuitable for use in a commercial or other activity; or

(b) a risk to human health or safety, or to the environment; or

(c) unfit for export or other trade.

13 Meaning of *biosecurity risk*

In this Act:

biosecurity risk means the risk of a biosecurity impact happening.

14 Reasonable suspicion—carriers

(1) An animal, plant or other thing may be reasonably suspected of being a carrier of biosecurity matter if there are reasonable grounds for suspecting that—

(a) biosecurity matter is present in or on, or is attached to, the animal, plant or other thing; or

(b) the animal, plant or other thing is or has been—

(i) in or with a flock, group or herd in which there is or was an animal, plant or other thing that was a carrier of the biosecurity matter; or

(ii) at a place where there is or was an animal, plant or other thing that was a carrier of the biosecurity matter; or

(iii) in a vehicle or other thing on or in which there is or was an animal, plant or other thing that was a carrier of the biosecurity matter; or

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(c) there is present, at the place where the animal, plant or other thing is kept, a vehicle or other thing that has been at another place when the biosecurity matter or a carrier of the biosecurity matter was present at that other place.

(2) A place may be reasonably suspected of being a carrier of biosecurity matter if there are reasonable grounds for suspecting that—

(a) biosecurity matter is present at the place; or

(b) there is present, at the place, a vehicle or other thing that has been at another place when the biosecurity matter or a carrier of the biosecurity matter was present.

(3) It is not necessary for an animal or plant to be exhibiting signs of infection or contamination, or any other sign that it is a carrier, for a person to form a reasonable suspicion that the animal or plant is a carrier.

(4) This section does not prevent the director-general, an authorised person or anyone else from using any other evidence or consideration available to them to form a reasonable suspicion that an animal, plant, place or other thing is a carrier of biosecurity matter.

15 Reasonable suspicion—disease infection

(1) An animal, plant or other thing may be reasonably suspected of being infected with a disease if there are reasonable grounds for suspecting that—

(a) a disease agent is present in or on the animal, plant or other thing; or

(b) the animal, plant or other thing is or has been—

(i) in or with a flock, group or herd in which there is or was an animal, plant or other thing infected with the disease; or

(ii) at a place where there is or was an animal, plant or other thing infected with the disease; or

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(iii) in a vehicle or other thing on or in which there is or was an animal, plant or other thing infected with the disease.

(2) A place may be reasonably suspected of being infected with a disease if there are reasonable grounds for suspecting that a disease agent is present at the place.

(3) It is not necessary for an animal or plant to be exhibiting signs of a disease for a person to form a reasonable suspicion that the animal or plant is infected with a disease.

(4) This section does not prevent the director-general, an authorised person or anyone else from using any other evidence or consideration available to them to form a reasonable suspicion that an animal, plant, place or other thing is infected with a disease.

16 Reasonable suspicion—pest infestation

(1) An animal or plant may be reasonably suspected of being infested with a pest if there are reasonable grounds for suspecting that the pest is present in or on, or is attached to, the animal or plant.

(2) A place or thing (other than an animal or plant) may be reasonably suspected of being infested with a pest if there are reasonable grounds for suspecting that—

(a) the pest is present at the place or on the thing; or

(b) there is present, at the place or on the thing, a vehicle or other thing that has been at another place when the pest was present at the other place.

(3) It is not necessary for an animal, plant, place or other thing to be exhibiting signs of infestation with a pest for a person to form a reasonable suspicion that the animal, plant, place or thing is infested with a pest.

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(4) This section does not prevent the director-general, an authorised person or anyone else from using any other evidence or consideration available to them to form a reasonable suspicion that an animal, plant, place or other thing is infested with a pest.

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Part 2 Biosecurity duties and offences

Division 2.1 Principles applying to biosecurity duties

17 Biosecurity duties not transferable

A person's biosecurity duty cannot be transferred to another person.

18 Person can have more than 1 biosecurity duty

A person can have more than 1 biosecurity duty.

19 More than 1 person can have a biosecurity duty

(1) More than 1 person can have the same biosecurity duty at the same time.

(2) Each person who has a biosecurity duty must comply with the duty to the standard required by this Act even if another person has the same duty.

(3) If more than 1 person has a biosecurity duty in relation to the same thing, each person—

(a) retains responsibility for the person's duty in relation to the thing; and

(b) must comply with the person's duty to the extent to which the person has the capacity to influence and control the thing or would have had that capacity but for an agreement or arrangement purporting to limit or remove that capacity.

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20 Duty to manage biosecurity risk

A duty imposed on a person to take all reasonable steps to manage a biosecurity risk is a duty—

(a) to take all reasonable steps to prevent or eliminate the risk; and

(b) if it is not reasonably practicable to prevent or eliminate the risk, to take all reasonable steps to minimise the risk.

21 Meaning of *reasonable steps*

For this Act, a person takes ***reasonable steps*** to manage a biosecurity risk if the person takes the steps they are reasonably able to take, taking into account all relevant matters including—

(a) the nature of the risk; and

(b) the degree of biosecurity impact that arises, or may arise, from the risk; and

(c) what the person knows about—

(i) the risk; and

(ii) the ways of managing the risk; and

(d) the availability and suitability of ways to manage the risk; and

(e) the cost of available ways of managing the risk, including whether the cost is grossly disproportionate to the risk.

Division 2.2 General biosecurity duty

22 General biosecurity duty

If a person deals with biosecurity matter or a carrier and the person knows, or reasonably ought to know, that the matter, carrier or dealing poses a biosecurity risk, the person has a duty (the ***general biosecurity duty***) to take all reasonable steps to manage the risk.

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23 Specific biosecurity requirements

(1) In this Act:

specific biosecurity requirement includes any requirement under this Act, or another territory law, that requires a person to do 1 or more of the following to manage a biosecurity risk or potential biosecurity risk:

(a) to take a stated action or do a stated thing;

(b) to refrain from engaging in a stated action or from doing a stated thing;

(c) to adopt, comply with or implement a standard, rule, code, guideline, program or other specification;

(d) to comply with a regulation, declaration, undertaking, condition, order, determination, direction, permit, notice or other instrument made or issued under this Act or any other territory law.

(2) The general biosecurity duty is not a specific biosecurity requirement.

(3) A specific biosecurity requirement is part of the general biosecurity duty.

(4) A person fails to comply with the general biosecurity duty in relation to biosecurity matter, a carrier or a dealing if the person fails to comply with an applicable specific biosecurity requirement in relation to the biosecurity matter, carrier or dealing.

(5) To remove any doubt, compliance with each applicable specific biosecurity requirement in relation to a dealing, biosecurity matter or carrier may not, of itself, be compliance with the general biosecurity duty in relation to that dealing, biosecurity matter or carrier.

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24 Offences—fail to comply with general biosecurity duty

(1) A person commits an offence if the person—

(a) has a general biosecurity duty under section 22; and

(b) intentionally fails to comply with the duty.

Maximum penalty: 2 500 penalty units, imprisonment for 2 years or both.

(2) A person commits an offence if the person—

(a) has a general biosecurity duty under section 22; and

(b) negligently fails to comply with the duty.

Maximum penalty: 2 500 penalty units.

(3) A person commits an offence if—

(a) the person has a general biosecurity duty under section 22; and

(b) the person intentionally or negligently fails to comply with the duty; and

(c) the failure causes a significant biosecurity impact; and

(d) the person is reckless about whether the failure would cause a significant biosecurity impact.

Maximum penalty: 5 000 penalty units, imprisonment for 4 years or both.

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Division 2.3 Duty to notify biosecurity events

25 Meaning of *biosecurity event*

In this Act:

biosecurity event—

(a) means an event that—

(i) has happened, is happening, or is likely to happen; and

(ii) has had, is having, or is likely to have a significant biosecurity impact; and

(b) includes the following events:

(i) the presence of prohibited biosecurity matter in any part of the ACT;

(ii) the appearance of ulcers or blisters on the mouth or feet of ruminants or pigs;

(iii) an unexplained and significant increase in a mortality rate or morbidity rate in plants or animals;

(iv) an unexplained and significant fall in production relating to plants or animals;

(v) the appearance of other unexplained and significant clinical signs in animals including, but not limited to, unexplained neurological signs or conditions;

(vi) anything else prescribed by regulation.

26 Duty to notify biosecurity event

(1) A person who becomes aware, or reasonably suspects, that a biosecurity event has happened, is happening or is likely to happen, has a duty to immediately notify the event in the way prescribed by regulation.

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(2) However, the duty arises only if the person—

(a) is the owner, occupier or person in charge of, or has possession of, premises, a carrier or other thing in relation to which the biosecurity event has happened, is happening or is likely to happen; or

(b) becomes aware of, or suspects, the biosecurity event as a result of a consultation or other work carried out in relation to premises, a carrier or other thing in the person's professional capacity; or

(c) is a person prescribed by regulation.

27 Offences—fail to comply with duty to notify biosecurity event

(1) A person commits an offence if the person—

(a) has a duty to notify a biosecurity event under section 26; and

(b) fails to comply with the duty.

Maximum penalty: 50 penalty units.

(2) A person commits an offence if the person—

(a) has a duty to notify a biosecurity event under section 26; and

(b) intentionally or negligently fails to comply with the duty.

Maximum penalty: 2 500 penalty units, imprisonment for 2 years or both.

(3) An offence against subsection (1) is a strict liability offence.

(4) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that they took all reasonable precautions and exercised all appropriate diligence to prevent the commission of the offence.

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(5) It is a defence to a prosecution for an offence against this section if the defendant proves that they believed on reasonable grounds that the biosecurity event was widely and publicly known.

Note The defendant has a legal burden in relation to the matters mentioned in s (4) and s (5) (see Criminal Code, s 59).

28 Duty to notify biosecurity event—self-incrimination

(1) A person is not excused from complying with the duty to notify a biosecurity event under section 26 on the ground that doing so may tend to incriminate the person or expose the person to a penalty.

(2) However, any information, document or thing obtained, directly or indirectly, because of the person complying with the duty is not admissible in evidence against the person in a civil or criminal proceeding, other than a proceeding for an offence—

(a) against section 27; or

(b) arising out of the false or misleading nature of the information, document or thing.

Division 2.4 Duty to notify presence of notifiable biosecurity matter

29 Notifiable biosecurity matter

(1) The Minister may declare biosecurity matter to be notifiable (***notifiable biosecurity matter***) if satisfied that the biosecurity matter poses a biosecurity risk.

(2) A declaration is a notifiable instrument.

30 Duty to notify presence of notifiable biosecurity matter

(1) A person who becomes aware of, or reasonably suspects, the presence of notifiable biosecurity matter, has a duty to immediately notify the presence in the way prescribed by regulation.

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(2) However, the duty arises only if the person—

(a) is the owner, occupier or person in charge of, or has possession of, premises, a carrier or other thing where the notifiable biosecurity matter is present or suspected of being present; or

(b) becomes aware of, or suspects, the presence of the notifiable biosecurity matter as a result of a consultation or other work carried out in relation to premises, a carrier or other thing in the person's professional capacity; or

(c) is a person prescribed by regulation.

31 Offences—fail to comply with duty to notify presence of notifiable biosecurity matter

(1) A person commits an offence if the person—

(a) has a duty to notify the presence of notifiable biosecurity matter under section 30; and

(b) fails to comply with the duty.

Maximum penalty: 50 penalty units.

(2) A person commits an offence if the person—

(a) has a duty to notify the presence of notifiable biosecurity matter under section 30; and

(b) intentionally or negligently fails to comply with the duty.

Maximum penalty: 2 500 penalty units, imprisonment for 2 years or both.

(3) An offence against subsection (1) is a strict liability offence.

(4) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that they took all reasonable precautions and exercised all appropriate diligence to prevent the commission of the offence.

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(5) It is a defence to a prosecution for an offence against this section if the defendant proves that they believed on reasonable grounds that the presence of notifiable biosecurity matter was widely and publicly known.

Note The defendant has a legal burden in relation to the matters mentioned in s (4) and s (5) (see Criminal Code, s 59).

32 Duty to notify presence of notifiable biosecurity matter—self-incrimination

(1) A person is not excused from complying with the duty to notify the presence of notifiable biosecurity matter under section 30 on the ground that doing so may tend to incriminate the person or expose the person to a penalty.

(2) However, any information, document or thing obtained, directly or indirectly, because of the person complying with the duty is not admissible in evidence against the person in a civil or criminal proceeding, other than a proceeding for an offence—

(a) against section 31; or

(b) arising out of the false or misleading nature of the information, document or thing.

Division 2.5 Prohibited biosecurity matter

33 Prohibited biosecurity matter

(1) The Minister may declare biosecurity matter to be prohibited (***prohibited biosecurity matter***) if satisfied that the biosecurity matter poses a significant biosecurity risk to any part of the ACT.

(2) A declaration may apply to a stated part of the ACT.

(3) A declaration is a notifiable instrument.

Note The presence of prohibited biosecurity matter in any part of the ACT is a biosecurity event and must be notified under s 26.

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34 Offences—deal with prohibited biosecurity matter

(1) A person must not deal with prohibited biosecurity matter.

Maximum penalty: 50 penalty units.

(2) A person commits an offence if the person intentionally or negligently deals with prohibited biosecurity matter.

Maximum penalty: 2 500 penalty units, imprisonment for 2 years or both.

(3) An offence against subsection (1) is a strict liability offence.

(4) If, in a prosecution for an offence against this section, it is proved that prohibited biosecurity matter was on land occupied by the defendant, it is presumed, unless the contrary is proved, that the defendant had possession of the prohibited biosecurity matter.

(5) It is a defence to a prosecution for an offence against subsection (1) constituted by the defendant having prohibited biosecurity matter in their possession if the defendant proves that they did not know, and could not reasonably be expected to have known, that they had the prohibited biosecurity matter in their possession.

(6) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that—

(a) they took all reasonable precautions and exercised all appropriate diligence to prevent the commission of the offence; or

(b) they had a reasonable excuse for dealing with the prohibited biosecurity matter.

Note 1 The defendant has a legal burden in relation to the matters mentioned in ss (4), (5) and (6) (see Criminal Code, s 59).

Note 2 A biosecurity permit may authorise a permit-holder to deal with prohibited biosecurity matter (see s 62).

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Division 2.6 Prohibited dealings with biosecurity matter

35 Prohibited dealings with biosecurity matter

(1) The Minister may declare that a stated dealing with biosecurity matter is prohibited (a ***prohibited dealing***) if satisfied that the dealing with the biosecurity matter poses a significant biosecurity risk to any part of the ACT.

(2) A declaration may apply to a stated part of the ACT.

(3) A declaration is a notifiable instrument.

36 Offences—engage in prohibited dealing

(1) A person must not engage in a prohibited dealing.

Maximum penalty: 50 penalty units.

(2) A person commits an offence if the person intentionally or negligently engages in a prohibited dealing.

Maximum penalty: 2 500 penalty units.

(3) An offence against subsection (1) is a strict liability offence.

(4) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that they had a reasonable excuse for engaging in the prohibited dealing.

Note 1 The defendant has a legal burden in relation to the matters mentioned in s (4) (see Criminal Code, s 59).

Note 2 A biosecurity permit may authorise the permit-holder to engage in a prohibited dealing (see s 62).

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Division 2.7 Alternative verdicts

37 Alternative verdicts for offences

(1) This section applies if, in a prosecution for a relevant offence, the trier of fact—

(a) is not satisfied beyond reasonable doubt that the defendant is guilty of the relevant offence; but

(b) is satisfied beyond reasonable doubt that the defendant is guilty of an alternative offence.

(2) The trier of fact may find the defendant guilty of the alternative offence, but only if the defendant has been given procedural fairness in relation to that finding of guilt.

(3) In this section:

alternative offence, for a relevant offence, means an offence mentioned in table 37, column 3, for the offence.

relevant offence means an offence mentioned in table 37, column 2.

Table 37 Alternative verdicts for offences—pt 2

column 1 item	column 2 relevant offence	column 3 alternative offence
1	s 24 (3) (intentionally/negligently fail to comply with general biosecurity duty, cause significant biosecurity impact)	s 24 (1) (intentionally fail to comply with general biosecurity duty) s 24 (2) (negligently fail to comply with general biosecurity duty)
2	s 27 (2) (intentionally/negligently fail to notify biosecurity event)	s 27 (1) (fail to notify biosecurity event)

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column 1 item	column 2 relevant offence	column 3 alternative offence
3	s 31 (2) (intentionally/negligently fail to notify presence of notifiable biosecurity matter)	s 31 (1) (fail to notify presence of notifiable biosecurity matter)
4	s 34 (1) (deal with prohibited biosecurity matter)	s 73 (2) (intentionally/negligently fail to comply with permit condition) s 73 (1) (fail to comply with permit condition)
5	s 34 (2) (intentionally/negligently deal with prohibited biosecurity matter)	s 34 (1) (deal with prohibited biosecurity matter) s 73 (2) (intentionally/negligently fail to comply with permit condition) s 73 (1) (fail to comply with permit condition)
6	s 36 (1) (engage in prohibited dealing)	s 73 (2) (intentionally/negligently fail to comply with permit condition) s 73 (1) (fail to comply with permit condition)
7	s 36 (2) (intentionally/negligently engage in prohibited dealing)	s 36 (1) (engage in prohibited dealing) s 73 (2) (intentionally/negligently fail to comply with permit condition) s 73 (1) (fail to comply with permit condition)

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Part 3 Biosecurity emergency declarations

38 Emergency declarations

(1) If the Minister is satisfied, or reasonably suspects, that there is a current or likely to happen biosecurity risk that may have a significant biosecurity impact, the Minister may declare a biosecurity emergency (an ***emergency declaration***).

(2) An emergency declaration must state the following:

(a) the biosecurity risk that is the subject of the emergency, including the biosecurity matter (if known) and the biosecurity impact (if known);

(b) the measures the Minister considers reasonably necessary to respond to the emergency (the ***emergency measures***);

(c) the area or premises where the emergency measures apply (the ***emergency zone***);

(d) the people to whom the emergency measures apply;

(e) when the declaration expires.

(3) An emergency declaration may be made for 1 or more of the following purposes:

(a) to prevent the spread of the biosecurity matter;

(b) to eradicate the biosecurity matter (if practicable);

(c) for any other purpose the Minister considers necessary.

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(4) An emergency declaration is a notifiable instrument unless—

(a) the emergency declaration applies only to stated premises (a ***property-specific emergency declaration***); and

(b) the Minister considers that it is appropriate to not notify the declaration.

39 Emergency declarations—duration

(1) An emergency declaration—

(a) comes into force immediately after it is made, or at any later time stated in the declaration; and

(b) ends 6 months after it comes into force, or any earlier time stated in the declaration.

(2) The Minister may extend, or further extend, an emergency declaration for an additional period of not longer than 6 months.

(3) An extension of an emergency declaration is a notifiable instrument unless the emergency declaration was not notified under section 38 (4).

40 Emergency declarations—notice

(1) The Minister must give public notice of—

(a) an emergency declaration; and

(b) an extension of an emergency declaration.

(2) However, if the emergency declaration is a property-specific emergency declaration, the Minister may instead give a copy of the declaration, or extension, to the owner, occupier or person apparently in charge of the premises.

(3) The Minister must take reasonable steps to ensure that people who are likely to be directly affected by the declaration, or extension, are made aware of the declaration or extension.

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41 Emergency declarations—deciding emergency measures

In deciding the emergency measures to include in an emergency declaration, the Minister must—

(a) ensure that an emergency measure is no more onerous than the Minister considers necessary, taking into account the nature of the biosecurity emergency; and

(b) consider—

(i) the purposes mentioned in section 38 (3); and

(ii) any other matter the Minister considers relevant.

42 Emergency declarations—scope of emergency measures

(1) Emergency measures may—

(a) prohibit, regulate or control the doing of anything related to the biosecurity risk; or

(b) require or authorise the doing of anything related to the biosecurity risk.

(2) In particular, emergency measures may prohibit, regulate, control, require or authorise any of the following:

(a) activities that involve biosecurity matter, a carrier or a potential carrier;

(b) the use of premises for an activity that involves biosecurity matter, a carrier or a potential carrier;

(c) the movement of any biosecurity matter or other thing;

(d) the isolation, confinement or detention of any biosecurity matter or other thing;

(e) the treatment measures to be carried out in relation to any biosecurity matter, premises or other thing;

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(f) the erection or repair of any fencing, gate or other method of enclosure, or the taking of any other stated security or containment measure in relation to any premises, biosecurity matter or other thing;

(g) the erection of signs;

(h) the provision of samples of any biosecurity matter or other thing;

(i) the testing of any biosecurity matter or other thing;

(j) the obtaining of a biosecurity certificate in relation to any biosecurity matter or other thing;

(k) the marking, branding, tagging or attaching of a device or other identifier to any biosecurity matter or carrier to identify or trace the biosecurity matter or carrier;

(l) the installation or use of a device at any premises to detect or monitor the presence of any biosecurity matter or other thing;

(m) the installation or use of a device or bait at any premises to capture, kill or otherwise control any biosecurity matter or other thing;

(n) the destruction, disposal or eradication of any biosecurity matter or other thing (including the manner of destruction, disposal or eradication);

(o) any other matter prescribed by regulation.

43 Emergency declarations—measures restricting movement of people

(1) In addition to section 42, emergency measures may also do any of the following:

(a) prohibit, regulate or control entry into, or exit from, any stated premises or stated area;

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(b) prohibit, regulate or control the use of any road within, or going into or out of, any stated premises or stated area (including by closing roads);

(c) require a person entering or leaving stated premises or a stated area to stop and, if required by an authorised person—

(i) allow themselves and anything in their possession to be inspected; and

(ii) carry out or permit external treatment measures to be carried out in relation to themselves and anything in their possession;

(d) prohibit a person from entering or leaving stated premises or a stated area unless the person has done either or both of the following:

(i) carried out a stated external treatment measure in relation to themselves;

(ii) carried out a stated treatment measure in relation to anything in the person's possession.

(2) An emergency declaration must not prohibit, regulate, control or require the movement of a person, except as expressly provided in subsection (1).

(3) However, subsection (2) does not prevent an emergency measure being imposed in relation to any biosecurity matter, premises, activity or other thing, that has an impact on the movement of a person but that is not imposed for the purpose of restricting the movement of the person.

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44 Emergency declarations—measures about treatment of people

An emergency declaration must not require—

(a) a treatment measure, other than an external treatment measure, to be carried out in relation to a person; or

(b) a person to provide a sample of their blood, hair, saliva or any other body part or body fluid.

45 Emergency declarations—measures about inspection of people

A requirement in an emergency declaration that a person must allow themselves to be inspected by an authorised person only authorises the authorised person to require the person to do 1 or more of the following:

(a) to submit to a visual inspection (including of the exterior of the person's clothing, accessories and shoes);

(b) to shake, or otherwise move, the person's hair.

46 Emergency declarations—measures about destruction of things

(1) An emergency declaration must not require or authorise the destruction of any biosecurity matter or other thing unless the Minister is satisfied that—

(a) the destruction is reasonably necessary to manage a significant biosecurity impact; or

(b) the destruction is reasonably necessary to detect, diagnose or determine the cause of a disease; or

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(c) if the biosecurity matter to be destroyed is an animal—the destruction is necessary to prevent or minimise an adverse effect on animal welfare, including any distress or likely distress to an animal.

(2) If an emergency declaration requires or authorises the destruction of any biosecurity matter or other thing, the Minister must ensure that a copy of the declaration is given to the owner or person in charge of the biosecurity matter or other thing before it is destroyed, unless—

(a) there appears to be no-one immediately in control of it, and the owner or person in charge cannot be found after reasonable inquiry; and

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

47 Emergency declarations—prevail over other instruments

An emergency declaration prevails, to the extent of any inconsistency, over the following:

(a) a regulation;

(b) a control declaration;

(c) a biosecurity permit, other than a biosecurity permit that expressly relates or applies to the emergency;

(d) biosecurity registration;

(e) a biosecurity direction, other than a biosecurity direction given in relation to the emergency declaration;

(f) a biosecurity undertaking;

(g) any other authorisation, exemption or other right or instrument made or issued under this Act.

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48 Emergency declarations—authorising actions and recovering costs

(1) If a person (the ***liable person***) fails to comply with an emergency declaration, the director-general may authorise a person to—

(a) enter premises; and

(b) take any action in relation to the premises, or anything at the premises, that the liable person is required by the declaration to take or is otherwise necessary to remedy the failure to comply.

(2) The director-general may recover from the liable person the reasonable costs of taking action under this section.

Note An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

(3) If the director-general authorises a person to enter residential premises to take action under subsection (1), the director-general must give written notice of the entry to an occupier of the premises.

(4) The notice must—

(a) state the day of entry; and

(b) be given to the occupier at least 1 day before the day of entry.

(5) However, notice is not required to be given if the person enters the residential premises—

(a) with the consent of an occupier of the premises; or

(b) under the authority of a warrant.

(6) Any action taken under this section for failure to comply with an emergency declaration, is in addition to the taking of a proceeding for an offence of failing to comply with an emergency declaration under section 49.

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49 Offences—fail to comply with emergency declaration

(1) A person must comply with an emergency declaration.

Maximum penalty: 50 penalty units.

(2) A person commits an offence if the person intentionally or negligently fails to comply with an emergency declaration.

Maximum penalty: 2 500 penalty units, imprisonment for 2 years or both.

(3) An offence against subsection (1) is a strict liability offence.

(4) This section does not apply if, at the time the person committed the offence, the person was not made aware of the emergency declaration.

Note The defendant has an evidential burden in relation to the matters mentioned in s (4) (see Criminal Code, s 58).

(5) For subsection (4) a person is ***made aware*** of an emergency declaration if—

(a) public notice of the declaration was given under section 40 (1); or

(b) the person was given a copy of the declaration; or

(c) an authorised person told the person orally, or in writing, about the declaration.

50 Emergency declarations—protection of emergency actions

(1) A court or tribunal must not grant an interim injunction, make any other interim order or give any other interim relief having the effect of preventing, restricting, staying or deferring any emergency declaration or anything authorised or required to be done under an emergency declaration during the period the declaration has effect.

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(2) However, subsection (1) does not prevent a court or tribunal from making a permanent injunction or other final order in any proceeding at any time.

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Part 4 Biosecurity control declarations

51 Control declarations

(1) If the Minister is satisfied that it is necessary to manage a biosecurity risk or biosecurity impact, the Minister may make a declaration (a ***control declaration***).

(2) A control declaration must state the following:

(a) the biosecurity risk or biosecurity impact that is the subject of the declaration, including the biosecurity matter (if known);

(b) the measures the Minister considers reasonably necessary to manage the biosecurity risk or biosecurity impact (the ***control measures***);

(c) the area or premises where the control measures apply (the ***control zone***);

(d) the people to whom the control measures apply;

(e) when the declaration expires.

(3) The main purpose of a control declaration is—

(a) to prevent the introduction into the ACT, or a part of the ACT, of biosecurity matter that poses, or is likely to pose, a biosecurity risk; or

(b) to eradicate from the ACT, or a part of the ACT, biosecurity matter that poses, or is likely to pose, a biosecurity risk; or

(c) if prevention or eradication are not reasonably practicable—to provide for the minimisation and management of a biosecurity risk or biosecurity impact.

(4) A control declaration is a notifiable instrument.

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52 Control declarations—duration

A control declaration—

(a) commences on the day after it is notified, or any later day stated in the declaration; and

(b) ends 5 years after it commences, or any earlier day stated in the declaration.

53 Control declarations—notice

(1) The Minister must give public notice of a control declaration.

(2) The Minister must take reasonable steps to ensure that people who are likely to be directly affected by the declaration are made aware of the declaration.

54 Control declarations—deciding control measures

In deciding the control measures to include in a control declaration, the Minister must—

(a) ensure that a control measure is no more onerous than the Minister considers necessary, taking into account the nature of the biosecurity risk or biosecurity impact to which the declaration relates; and

(b) consider—

(i) the purposes mentioned in section 51 (3); and

(ii) any other matter the Minister considers relevant.

55 Control declarations—scope of control measures

(1) Control measures may—

(a) prohibit, regulate or control the doing of anything related to the biosecurity risk or biosecurity impact; or

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(b) require or authorise the doing of anything related to the biosecurity risk or biosecurity impact.

(2) In particular, control measures may prohibit, regulate, control, require or authorise any of the following:

(a) activities that involve biosecurity matter, a carrier or a potential carrier;

(b) the use of premises for an activity that involves biosecurity matter, a carrier or a potential carrier;

(c) the movement of any biosecurity matter or other thing;

(d) the isolation, confinement or detention of any biosecurity matter or other thing;

(e) treatment measures to be carried out in relation to any biosecurity matter, premises or other thing;

(f) the erection or repair of any fencing, gate or other method of enclosure, or the taking of any other stated security or containment measure in relation to any biosecurity matter, premises or other thing;

(g) the erection of signs;

(h) the provision of samples of any biosecurity matter or other thing;

(i) the testing of any biosecurity matter or other thing;

(j) the obtaining of a biosecurity certificate in relation to any biosecurity matter or other thing;

(k) the marking, branding, tagging or attaching of a device or other identifier to any biosecurity matter or carrier to identify or trace the biosecurity matter or carrier;

(l) the installation or use of a device at any premises to detect or monitor the presence of any biosecurity matter or other thing;

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(m) the installation or use of a device or bait at any premises to capture, kill or otherwise control any biosecurity matter or other thing;

(n) the destruction, disposal or eradication of any biosecurity matter or other thing (including the manner of destruction, disposal or eradication);

(o) any other matter prescribed by regulation.

56 Control declarations—measures restricting movement of people

(1) A control declaration must not prohibit, regulate, control or require the movement of a person.

(2) However, subsection (1) does not prevent a control measure being imposed in relation to any biosecurity matter, premises, area, activity or thing that has an impact on the movement of a person but is not imposed for the purpose of restricting the movement of the person.

57 Control declarations—measures about treatment of people

A control declaration must not require—

(a) a treatment measure to be carried out in relation to a person; or

(b) a person to provide a sample of their blood, hair, saliva or any other body part or body fluid.

58 Control declarations—measures about destruction of things

(1) A control declaration must not require or authorise the destruction of any biosecurity matter or other thing unless—

(a) it is, or the Minister or an authorised person reasonably suspects it is, prohibited biosecurity matter; or

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(b) it is, or the Minister or an authorised person reasonably suspects it is, a carrier of prohibited biosecurity matter; or

(c) it is a pest to which the control declaration relates; or

(d) both of the following apply:

(i) it is, or the Minister or an authorised person reasonably suspects it is, infected with, infested with or carrying biosecurity matter to which the control declaration relates;

(ii) there is no other reasonably practicable treatment measure that could eliminate or minimise the biosecurity risk posed by the biosecurity matter; or

(e) it is, or the Minister or an authorised person reasonably suspects it is—

(i) abandoned; and

(ii) biosecurity matter to which the control declaration relates, or a carrier of biosecurity matter to which the control declaration relates.

(2) If a control declaration requires or authorises the destruction of any biosecurity matter or other thing, the Minister must ensure that a copy of the declaration is given to the owner or person in charge of the biosecurity matter or other thing before it is destroyed, unless—

(a) there appears to be no-one immediately in control of it, and the owner or person in charge cannot be found after reasonable inquiry; and

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

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59 Control declarations—nature conservation and heritage matters

(1) A control declaration must not require a person to interfere with any of the following unless the Minister has consulted with the conservator of flora and fauna:

(a) a native animal, a native fish or a native plant;

(b) a natural or constructed structure or feature in a reserve;

(c) infrastructure in a reserve;

(d) a site or object of historical, archaeological, palaeontological or geological interest in a reserve.

(2) A control declaration must not require a person to interfere with a heritage place or object unless the Minister has consulted with the heritage council.

(3) A failure to comply with this section does not affect the validity of a control declaration.

60 Control declarations—authorising actions and recovering costs

(1) If a person (the ***liable person***) fails to comply with a control declaration, the director-general may authorise a person to—

(a) enter premises other than residential premises; and

(b) take any action in relation to the premises, or anything at the premises, that the liable person is required by the declaration to take or is otherwise necessary to remedy the failure to comply.

(2) The director-general may recover from the liable person the reasonable costs of taking action under this section.

Note An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

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(3) Any action taken under this section for failure to comply with a control declaration, is in addition to the taking of a proceeding for an offence of failing to comply with a control declaration under section 61.

61 Offences—fail to comply with control declaration

(1) A person must comply with a control declaration.

Maximum penalty: 50 penalty units.

(2) A person commits an offence if the person intentionally or negligently fails to comply with a control declaration.

Maximum penalty: 1 000 penalty units.

(3) An offence against subsection (1) is a strict liability offence.

(4) This section does not apply if, at the time the person committed the offence, the person was not made aware of the control declaration.

Note The defendant has an evidential burden in relation to the matters mentioned in s (4) (see Criminal Code, s 58).

(5) For subsection (4) a person is ***made aware*** of a control declaration if—

(a) public notice of the declaration was given under section 53 (1); or

(b) the person was given a copy of the declaration; or

(c) an authorised person told the person orally, or in writing, about the declaration.

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Part 5 Biosecurity permits and group exemptions

Division 5.1 Biosecurity permits

62 Biosecurity permits authorise conduct otherwise prohibited

(1) A ***biosecurity permit*** authorises a person (the ***permit-holder***) to engage in stated conduct that would otherwise be prohibited under this Act.

Examples—prohibited conduct

1 dealing with prohibited biosecurity matter (see s 34)

2 engaging in a prohibited dealing (see s 36)

3 failing to comply with an emergency declaration (see s 49)

(2) However, a biosecurity permit does not authorise conduct in contravention of an emergency declaration, or a biosecurity direction given in an emergency, unless the permit expressly relates or applies to the emergency.

(3) To remove any doubt, compliance with a biosecurity permit in relation to a dealing may not, of itself, be compliance with the general biosecurity duty in relation to the dealing.

63 Permits—application

(1) A person may apply to the director-general for a biosecurity permit.

(2) An application must—

(a) be in writing; and

(b) state the conduct to be permitted; and

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(c) include any information that the director-general reasonably requires to decide the application.

Note It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see Criminal Code, pt 3.4).

64 Permits—renewal application

(1) A permit-holder may apply to the director-general for renewal of their biosecurity permit.

(2) An application must—

(a) be in writing; and

(b) include any information that the director-general reasonably requires to decide the application.

(3) If an application for renewal is made before the permit expires, the biosecurity permit continues in force (unless otherwise suspended, cancelled or surrendered) until the director-general notifies the applicant of a decision on the application.

65 Permits—additional information

(1) The director-general may, by written notice, require an applicant for a biosecurity permit under section 63, or renewal under section 64, to give the director-general additional information that the director-general reasonably needs to decide the application, within a stated time and at a stated place.

(2) If the applicant does not comply with a requirement in the notice, the director-general may refuse to consider the application further.

66 Permits—change of information

If the information in an application for a biosecurity permit under section 63, or renewal under section 64, changes before the application is decided, the applicant must give the director-general written notice of the details of the change as soon as practicable.

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67 Permits—decision on application

(1) If a person applies for a biosecurity permit under section 63, or renewal under section 64, the director-general must—

(a) approve the application; or

(b) refuse the application.

(2) The director-general may refuse the application if the director-general is not satisfied that the applicant—

(a) is a suitable person to engage in the conduct to be authorised by the permit; or

(b) has the qualifications, skills, knowledge and experience to manage the biosecurity risk associated with the conduct to be authorised by the permit.

(3) The director-general may also refuse the application—

(a) if satisfied that it would not be appropriate to issue, or renew, the permit because of an emergency; or

(b) if satisfied that the biosecurity risk associated with the conduct to be authorised by the permit is unacceptable; or

(c) on any grounds prescribed by regulation; or

(d) for any other reason the director-general considers appropriate.

(4) The director-general must give the applicant written notice of a decision to approve or refuse the application (a ***permit decision notice***).

(5) If the director-general fails to give an applicant a permit decision notice within the period prescribed by regulation, the director-general is taken to have refused the application.

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68 Permits—suitable person

(1) In deciding whether an applicant is a suitable person for section 67 (2) (a), the director-general must consider the following matters:

(a) the applicant's history of compliance with this Act and any other Act that is relevant to the biosecurity permit, and the applicant's capacity to comply in the future;

(b) the outcome of any biosecurity audit in relation to the applicant;

(c) any other matter prescribed by regulation;

(d) any other matter the director-general considers relevant.

(2) If the applicant is a corporation, the director-general must also consider the matters mentioned in subsection (1) for each influential person for the corporation.

69 Permits—duration

(1) A biosecurity permit or renewal—

(a) starts on the day it is given, or any later day stated in the permit decision notice; and

(b) expires 5 years after it starts, or any earlier day stated in the notice.

(2) A permit has no effect during any period in which it is suspended.

70 Permits—amendment

(1) The director-general may amend a biosecurity permit if satisfied that the amendment is necessary.

(2) An amendment may be made—

(a) on the director-general's own initiative; or

(b) on application by the permit-holder.

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71 Permits—conditions

A biosecurity permit includes—

(a) a condition that the permit-holder must cooperate with any biosecurity audit required by the director-general; and

(b) any other condition prescribed by regulation; and

(c) any other condition the director-general considers appropriate, including any of the following:

(i) a condition requiring the permit-holder to take out and maintain an insurance policy that indemnifies the permit-holder against liability in relation to the conduct to be authorised by the permit;

(ii) a condition requiring the permit-holder to do something before their permit is suspended, cancelled or surrendered to ensure that biosecurity matter and carriers are dealt with appropriately on the suspension, cancellation or surrender;

(iii) a financial assurance condition under section 72;

(iv) a condition providing that the permit does not take effect until a stated day, act or event.

72 Permits—financial assurance conditions

(1) The director-general may impose a condition on a biosecurity permit requiring the permit-holder to provide a financial assurance (a ***financial assurance condition***) for anything required as a result of any of the following events (a ***secured event***):

(a) the permit-holder failing to comply with another condition on their permit;

(b) the permit-holder giving any biosecurity matter that their permit authorises them to deal with, to the director-general;

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(c) the permit-holder engaging in conduct that they are not authorised by the permit to engage in;

(d) the permit-holder no longer being authorised to engage in the conduct authorised by the permit;

(e) the permit-holder being unable, for any reason, to continue to engage in the conduct authorised by the permit.

(2) A financial assurance condition may require the permit-holder to provide evidence of the financial assurance to the director-general.

(3) A financial assurance condition may require financial assurance in 1 or more of the following forms:

(a) a bank guarantee;

(b) a bond;

(c) an insurance policy;

(d) a form prescribed by regulation;

(e) any other form the director-general considers appropriate.

(4) A financial assurance condition may provide for the following matters:

(a) how the amount of financial assurance is to be worked out;

(b) the circumstances in which the financial assurance may be claimed or realised, and the procedure for claiming or realising the financial assurance;

(c) actions that may be taken after a secured event, including—

(i) when stated actions may be taken by the director-general; and

(ii) when the director-general may enter premises to take stated actions;

(d) when stated information must be provided;

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(e) auditing of actions that may result in the financial assurance being claimed or realised;

(f) the administration of the financial assurance;

(g) the release of the financial assurance.

(5) A financial assurance may be claimed and realised, despite and without affecting—

(a) any liability of the permit-holder for any penalty for an offence for a failure to comply to which the assurance relates; and

(b) any other action that may be taken, or is required to be taken, in relation to any failure to comply or other circumstance to which the assurance relates.

73 Offences—fail to comply with permit condition

(1) A permit-holder must comply with the conditions on their biosecurity permit.

Maximum penalty: 50 penalty units.

(2) A permit-holder commits an offence if—

(a) the permit is subject to a condition; and

(b) the permit-holder intentionally or negligently fails to comply with the condition.

Maximum penalty: 2 500 penalty units.

(3) An offence against subsection (1) is a strict liability offence.

74 Permits—grounds for suspension or cancellation

Each of the following is a ground for suspending or cancelling a biosecurity permit:

(a) the permit-holder has failed to comply with a provision of this Act;

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(b) the permit-holder is not a suitable person to engage in the conduct authorised by the permit;

(c) the permit-holder does not have the qualifications, skills, knowledge and experience to manage the biosecurity risk associated with the conduct to be authorised by the permit;

(d) the permit-holder used false or misleading information to obtain the permit;

(e) a ground for refusing to renew the permit exists;

(f) the suspension or cancellation is necessary because of an emergency;

(g) any other ground prescribed by regulation.

75 Permits—suspension

If the director-general is satisfied there are grounds to suspend a biosecurity permit, the director-general may suspend the permit by giving the permit-holder a written suspension notice stating—

(a) the grounds for the suspension; and

(b) when the suspension takes effect; and

(c) when the suspension ends; and

(d) the actions required (if any) for the suspension to be revoked.

76 Permits—notice of proposed suspension

(1) Before suspending a biosecurity permit, the director-general must give the permit-holder a written notice stating—

(a) that the director-general proposes to suspend the permit; and

(b) the grounds for the proposed suspension; and

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(c) that the permit-holder may, by a stated day that is at least 28 days after the day the notice is given to the permit-holder, make a submission to the director-general about the proposed suspension.

(2) If the permit-holder makes a submission before the stated day, the director-general must take the submission into account in deciding whether to suspend the permit.

(3) This section is subject to section 77.

77 Permits—immediate suspension without prior notice

(1) The director-general need not give notice under section 76 before suspending a biosecurity permit—

(a) if the director-general is satisfied that the suspension is required urgently because of the biosecurity impact of the conduct authorised by the permit; or

(b) in an emergency; or

(c) for any other reason prescribed by regulation.

(2) However, if the director-general suspends a permit without giving prior notice, the director-general must give the permit-holder a written notice stating—

(a) the grounds for the suspension; and

(b) that the permit-holder may, by a stated day that is at least 28 days after the day the notice is given to the permit-holder, make a submission to the director-general about the suspension.

(3) If the permit-holder makes a submission before the stated day, the director-general must—

(a) consider the submission; and

(b) decide whether to revoke or continue the suspension; and

(c) give the permit-holder written notice of the decision.

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78 Permits—cancellation

(1) If the director-general is satisfied there are grounds to cancel a biosecurity permit, the director-general may cancel the permit by giving the permit-holder a written cancellation notice stating—

(a) the grounds for the cancellation; and

(b) when the cancellation takes effect.

(2) However, in an emergency, the director-general may give the notice orally, and give written confirmation of the cancellation to the permit-holder as soon as practicable.

79 Permits—notice of proposed cancellation

(1) Before cancelling a biosecurity permit, the director-general must give the permit-holder written notice stating—

(a) that the director-general proposes to cancel the permit; and

(b) the grounds for the proposed cancellation; and

(c) that the permit-holder may, by a stated day that is at least 28 days after the day the notice is given to the permit-holder, make a submission to the director-general about the proposed cancellation.

(2) If the permit-holder makes a submission before the stated day, the director-general must take the submission into account in deciding whether to cancel the permit.

(3) This section is subject to section 80.

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80 Permits—immediate cancellation without prior notice

(1) The director-general need not give notice under section 79 before cancelling a biosecurity permit—

(a) if the director-general is satisfied that the cancellation is required urgently because of the biosecurity impact of the conduct authorised by the permit; or

(b) in an emergency; or

(c) if the permit is suspended under section 75 and the permit-holder—

(i) is given notice under section 76 (1) or section 77 (2); and

(ii) either—

(A) the director-general has considered any submissions by the permit-holder; or

(B) the permit-holder did not make any submissions in the period stated in the notice; or

(d) for any other reason prescribed by regulation.

(2) However, if the director-general cancels a permit without giving prior notice, the director-general must give the permit-holder a written notice stating—

(a) the grounds for the cancellation; and

(b) that the permit-holder may, by a stated day that is at least 28 days after the day the notice is given to the permit-holder, make a submission to the director-general about the cancellation.

(3) If the permit-holder makes a submission before the stated day, the director-general must—

(a) consider the submission; and

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(b) decide whether to revoke or continue the cancellation; and

(c) give the permit-holder written notice of the decision.

81 Permits—surrender

(1) A permit-holder may surrender their biosecurity permit.

(2) The surrender must—

(a) be in writing; and

(b) be given to the director-general; and

(c) include any information that the director-general reasonably requires to determine the consequences of the surrender.

(3) The surrender does not take effect until the director-general gives the permit-holder written notice that the director-general is satisfied that the biosecurity matter and carriers involved in the conduct authorised by the permit will be dealt with appropriately by the permit-holder.

Division 5.2 Group exemptions

82 Group exemptions

(1) A group exemption authorises a stated class of people to engage in stated conduct that would otherwise be prohibited under this Act.

(2) However, a group exemption does not authorise conduct in contravention of an emergency declaration or a biosecurity direction given in an emergency unless the exemption expressly relates or applies to the emergency.

83 Group exemptions—declaration

(1) The director-general may, on request or on the director-general's own initiative, declare that a stated class of people is exempt from a stated provision of this Act (a ***group exemption***).

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(2) However, the director-general must not declare a group exemption—

(a) if satisfied the biosecurity risk associated with the exemption is unacceptable; or

(b) on any ground prescribed by regulation.

(3) A group exemption is a notifiable instrument.

84 Group exemptions—duration

The director-general must not declare a group exemption for a period longer than 5 years.

85 Group exemptions—conditions

The director-general may impose any condition the director-general considers appropriate on a group exemption.

86 Offences—fail to comply with group exemption condition

(1) A person who engages in conduct under the authority of a group exemption must comply with the conditions of the group exemption.

Maximum penalty: 50 penalty units.

(2) A person commits an offence if—

(a) the person engages in conduct under the authority of a group exemption; and

(b) the group exemption is subject to a condition; and

(c) the person intentionally or negligently fails to comply with the condition.

Maximum penalty: 1 000 penalty units.

(3) An offence against subsection (1) is a strict liability offence.

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Division 5.3 Permits and group exemptions

87 Permits and group exemptions—exercise of functions in emergencies

(1) A provision of this part that provides for the director-general to exercise a function in an emergency provides for the director-general to exercise that function if—

(a) the director-general reasonably believes it is necessary to exercise the function because of an emergency declaration; or

(b) the director-general otherwise reasonably believes it is necessary to exercise the function because—

(i) a biosecurity emergency has happened, is happening or is likely to happen; or

(ii) the director-general reasonably suspects a biosecurity emergency has happened, is happening or is likely to happen.

(2) A function under this part is taken to have been exercised in an emergency if it is exercised by the director-general in the circumstances mentioned in subsection (1).

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Part 6 Biosecurity registration

88 Meaning of *regulated dealing*—pt 6

In this part:

regulated dealing means a dealing with biosecurity matter that is prescribed by regulation.

89 Biosecurity registration authorises regulated dealings

Registration under this Act (***biosecurity registration***) authorises the registered person to engage in a stated regulated dealing.

90 Offences—engage in regulated dealing without registration

(1) A person must not engage in a regulated dealing if the person is not registered to engage in the dealing.

Maximum penalty: 50 penalty units.

(2) A person commits an offence if the person—

(a) intentionally or negligently engages in a regulated dealing; and

(b) is not registered to engage in the dealing.

Maximum penalty: 1 000 penalty units.

(3) An offence against subsection (1) is a strict liability offence.

(4) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that they had a reasonable excuse for engaging in the regulated dealing.

(5) It is a defence to a prosecution for an offence against this section if the defendant proves that—

(a) they engaged in the dealing as the employee or agent of a registered person; and

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(b) the registered person is registered to engage in the dealing.

Note The defendant has a legal burden in relation to the matters mentioned in s (4) and s (5) (see Criminal Code, s 59).

91 Registration—application

(1) A person may apply to the director-general for registration to engage in a regulated dealing.

(2) An application must—

(a) be in writing; and

(b) state the regulated dealing; and

(c) include any information that the director-general reasonably requires to decide the application.

Note It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see Criminal Code, pt 3.4).

92 Registration—renewal application

(1) A registered person may apply to the director-general for renewal of their registration.

(2) An application must—

(a) be in writing; and

(b) include any information that the director-general reasonably requires to decide the application.

(3) If an application for renewal is made before the registration expires, the registration continues in force (unless otherwise suspended, cancelled or surrendered) until the director-general notifies the applicant of a decision on the application.

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93 Registration—additional information

(1) The director-general may, by written notice, require an applicant for registration under section 91, or renewal under section 92, to give the director-general additional information that the director-general reasonably needs to decide the application, within a stated time and at a stated place.

(2) If the applicant does not comply with a requirement in the notice, the director-general may refuse to consider the application further.

94 Registration—change of information

If the information in an application for registration under section 91, or renewal under section 92, changes before the application is decided, the applicant must give the director-general written notice of the details of the change as soon as practicable.

95 Registration—decision on application

(1) If a person applies for registration to engage in a regulated dealing under section 91, or renewal under section 92, the director-general must—

(a) approve the application; or

(b) refuse the application.

(2) The director-general may refuse the application if the director-general is not satisfied that the applicant—

(a) is a suitable person to engage in the regulated dealing; or

(b) has the skills, knowledge or experience to manage the biosecurity risk associated with the regulated dealing authorised by the registration.

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(3) The director-general may also refuse the application—

(a) if satisfied that it would not be appropriate to register the applicant, or renew the registration, because of an emergency; or

(b) if satisfied that the biosecurity risk associated with the regulated dealing authorised by the registration is unacceptable; or

(c) on any grounds prescribed by regulation; or

(d) for any other reason the director-general considers appropriate for refusing the application.

(4) The director-general must give the applicant written notice of a decision to approve or refuse the application (a ***registration decision notice***).

(5) If the director-general fails to give an applicant a registration decision notice within the period prescribed by regulation, the director-general is taken to have refused the application.

96 Registration—suitable person

(1) In deciding whether an applicant is a suitable person for section 95 (2) (a), the director-general must consider the following matters:

(a) the applicant's history of compliance with this Act and any other Act that is relevant to the registration, and the applicant's capacity to comply in the future;

(b) the outcome of any biosecurity audit in relation to the applicant;

(c) any other matter prescribed by regulation;

(d) any other matter the director-general considers relevant.

(2) If the applicant is a corporation, the director-general must also consider the matters mentioned in subsection (1) for each influential person for the corporation.

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97 Registration—duration

(1) A person's registration or renewal—

(a) starts on the day it is given, or any later day stated in the registration decision notice; and

(b) expires 5 years after it starts, or any earlier day stated in the notice.

(2) Registration has no effect during any period in which it is suspended.

98 Registration—amendment

(1) The director-general may amend a person's registration if satisfied that the amendment is necessary.

(2) An amendment may be made—

(a) on the director-general's own initiative; or

(b) on application by the registered person.

99 Registration—conditions

(1) Registration includes—

(a) a condition that the registered person must cooperate with any biosecurity audit required by the director-general; and

(b) any other condition prescribed by regulation; and

(c) any other condition the director-general considers appropriate, including any of the following:

(i) a condition requiring the person to engage in the regulated dealing in accordance with all or part of a stated standard, code, guideline, protocol, program or other instrument;

(ii) a condition requiring the person to carry out stated works, or put in place stated measures, to manage the biosecurity risk involved in the regulated dealing;

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(iii) a condition requiring the person to have in place an alternative arrangement for the regulated dealing, that has been approved by the director-general;

(iv) a condition requiring the person to take out and maintain an insurance policy that indemnifies the person against liability in relation to the regulated dealing;

(v) a condition requiring the person to do something before their registration is suspended, cancelled or surrendered to ensure that the biosecurity matter and carriers involved in the regulated dealing are dealt with appropriately on the suspension, cancellation or surrender;

(vi) a condition providing that the registration does not take effect until a stated day, act or event.

(2) In this section:

alternative arrangement, for a regulated dealing, means a plan or arrangement relating to the regulated dealing, that takes effect if the person—

(a) is no longer registered to engage in the regulated dealing; or

(b) is unable, for any reason, to continue to engage in the regulated dealing.

100 Offences—fail to comply with registration condition

(1) A registered person must comply with the conditions on their registration.

Maximum penalty: 50 penalty units.

(2) A registered person commits an offence if—

(a) the person's registration is subject to a condition; and

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(b) the person intentionally or negligently fails to comply with the condition.

Maximum penalty: 1 000 penalty units.

(3) An offence against subsection (1) is a strict liability offence.

101 Registration—grounds for suspension or cancellation

Each of the following is a ground for suspending or cancelling a person's registration:

(a) the registered person has failed to comply with a provision of this Act;

(b) the registered person is not a suitable person to engage in the regulated dealing for which they are registered;

(c) the registered person does not have the qualifications, skills, knowledge and experience to manage the biosecurity risk associated with the regulated dealing;

(d) the registered person used false or misleading information to obtain the registration;

(e) a ground for refusing to renew the registration exists;

(f) the suspension or cancellation is necessary because of an emergency;

(g) any other ground prescribed by regulation.

102 Registration—suspension

If the director-general is satisfied there are grounds to suspend a person's registration, the director-general may suspend the registration by giving the person a written suspension notice stating—

(a) the grounds for the suspension; and

(b) when the suspension takes effect; and

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(c) when the suspension ends; and

(d) the actions required (if any) for the suspension to be revoked.

103 Registration—notice of proposed suspension

(1) Before suspending a person's registration, the director-general must give the person a written notice stating—

(a) that the director-general proposes to suspend the registration; and

(b) the grounds for the proposed suspension; and

(c) that the person may, by a stated day that is at least 14 days after the day the notice is given to the person, make a submission to the director-general about the proposed suspension.

(2) If the person makes a submission before the stated day, the director-general must take the submission into account in deciding whether to suspend the person's registration.

(3) This section is subject to section 104.

104 Registration—immediate suspension without prior notice

(1) The director-general need not give notice under section 103 before suspending a person's registration—

(a) if the director-general is satisfied that the suspension is required urgently because of the biosecurity impact of the regulated dealing being carried out by the registered person; or

(b) in an emergency; or

(c) for any other reason prescribed by regulation.

(2) However, if the director-general suspends a person's registration without giving prior notice, the director-general must give the person a written notice stating—

(a) the grounds for the suspension; and

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(b) that the person may, by a stated day that is at least 14 days after the day the notice is given to the person, make a submission to the director-general about the suspension.

(3) If the person makes a submission before the stated day, the director-general must—

(a) consider the submission; and

(b) decide whether to revoke or continue the suspension; and

(c) give the person written notice of the decision.

105 Registration—cancellation

If the director-general is satisfied there are grounds to cancel a person's registration, the director-general may cancel the registration by giving the registered person a written cancellation notice stating—

(a) the grounds for the cancellation; and

(b) when the cancellation takes effect.

106 Registration—notice of proposed cancellation

(1) Before cancelling a person's registration, the director-general must give the person a written notice stating—

(a) that the director-general proposes to cancel the registration; and

(b) the grounds for the proposed cancellation; and

(c) that the person may, by a stated day that is at least 14 days after the day the notice is given to the person, make a submission to the director-general about the proposed cancellation.

(2) If the person makes a submission before the stated day, the director-general must take the submission into account in deciding whether to cancel the person's registration.

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107 Registration—immediate cancellation without prior notice

(1) The director-general need not give notice under section 106 before cancelling a person's registration—

(a) if the director-general is satisfied that the cancellation is required urgently because of the biosecurity impact of the regulated dealing being carried out by the registered person; or

(b) in an emergency; or

(c) if the registration is suspended under section 102 and the registered person—

(i) is given notice under section 103 (1) or section 104 (2); and

(ii) either—

(A) the director-general has considered any submissions by the registered person; or

(B) the registered person did not make any submissions in the period stated in the notice; or

(d) for any other reason prescribed by regulation.

(2) However, if the director-general cancels a person's registration without giving prior notice, the director-general must give the registered person a written notice stating—

(a) the grounds for the cancellation; and

(b) that the registered person may, by a stated day that is at least 14 days after the day the notice is given to the registered person, make a submission to the director-general about the cancellation.

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(3) If the registered person makes a submission before the stated day, the director-general must—

(a) consider the submission; and

(b) decide whether to revoke or continue the cancellation; and

(c) give the registered person written notice of the decision.

108 Registration—surrender

(1) A person may surrender their biosecurity registration.

(2) The surrender must—

(a) be in writing; and

(b) be given to the director-general; and

(c) include any information that the director-general reasonably requires to determine the consequences of the surrender.

(3) The surrender does not take effect until the director-general gives the person written notice that the director-general is satisfied the biosecurity matter and carriers involved in the regulated dealing will be dealt with appropriately by the person.

109 Registration—exercise of functions in emergencies

(1) A provision of this part that provides for the director-general to exercise a function in an emergency provides for the director-general to exercise that function if—

(a) the director-general reasonably believes it is necessary to exercise the function because of an emergency declaration; or

(b) the director-general otherwise reasonably believes it is necessary to exercise the function because—

(i) a biosecurity emergency has happened, is happening or is likely to happen; or

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(ii) the director-general reasonably suspects a biosecurity emergency has happened, is happening or is likely to happen.

(2) A function under this part is taken to have been exercised in an emergency if it is exercised by the director-general in the circumstances mentioned in subsection (1).

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Part 7 Biosecurity certificates

110 Biosecurity certificates

(1) A biosecurity certifier may issue a certificate that certifies 1 or more of the following matters (a ***biosecurity certificate***):

(a) that any biosecurity matter, premises or other thing is free from, or contains a stated level of, any stated biosecurity matter;

(b) that any biosecurity matter, premises or other thing is in a stated condition;

(c) that any biosecurity matter, premises or other thing has been the subject of a stated treatment measure;

(d) that any biosecurity matter, premises or other thing meets stated requirements;

(e) any other matter prescribed by regulation.

(2) A biosecurity certificate remains in force for the period stated in the certificate.

111 Interstate biosecurity certificates

(1) In this Act:

interstate biosecurity certificate means a certificate issued under a corresponding biosecurity law, that certifies a matter that could be certified in a biosecurity certificate.

(2) A person is taken to hold a biosecurity certificate for any biosecurity matter, premises or other thing if the person holds an interstate biosecurity certificate for the biosecurity matter, premises or thing.

112 Offences—false or misleading biosecurity certificate

(1) A person must not issue a false or misleading biosecurity certificate.

Maximum penalty: 50 penalty units.

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(2) A person commits an offence if—

(a) the person issues a biosecurity certificate; and

(b) the certificate is false or misleading; and

(c) the person knows, or is negligent about whether, the certificate—

(i) is false or misleading; or

(ii) omits anything without which the certificate is false or misleading.

Maximum penalty: 1 000 penalty units.

(3) An offence against subsection (1) is a strict liability offence.

(4) In this section:

biosecurity certificate includes an interstate biosecurity certificate.

113 Offences—false representation about biosecurity certificate

(1) A person must not falsely represent that a biosecurity certificate has been issued for any biosecurity matter, premises or other thing.

Maximum penalty: 50 penalty units.

(2) A person commits an offence if the person intentionally or negligently falsely represents that a biosecurity certificate has been issued for any biosecurity matter, premises or other thing.

Maximum penalty: 1 000 penalty units.

(3) An offence against subsection (1) is a strict liability offence.

(4) In this section:

biosecurity certificate includes an interstate biosecurity certificate.

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Part 8 Biosecurity audits

114 Meaning of *authorisation-holder*—pt 8

In this part:

authorisation-holder means any of the following:

(a) a permit-holder;

(b) a registered person;

(c) a biosecurity certifier;

(d) a biosecurity auditor;

(e) a certifier authority;

(f) an auditor authority.

115 Biosecurity audits

(1) The director-general may require that a biosecurity auditor carry out an audit (a ***biosecurity audit***) in relation to an authorisation-holder, for 1 or more of the following purposes:

(a) to assess an authorisation-holder's eligibility to hold their permit, registration or approval;

(b) to assess the authorisation-holder's compliance, or capability of complying, with this Act;

(c) to identify ways to improve the authorisation-holder's compliance with this Act.

(2) A certifier authority or auditor authority—

(a) must require a biosecurity audit of a person the authority has approved as a biosecurity certifier or biosecurity auditor if requested in writing by the director-general; and

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(b) may otherwise require a biosecurity audit of a person the authority has approved as a biosecurity certifier or biosecurity auditor.

116 Biosecurity audits—notice to authorisation-holder

(1) A biosecurity audit may be carried out only if the person requiring the audit has given the authorisation-holder written notice at least 24 hours before the audit is to be carried out.

(2) However, an audit may be carried out at any time if the person requiring the audit believes on reasonable grounds that the risk is so serious and urgent that immediate auditing without notice is necessary.

117 Biosecurity audits—reporting requirements

(1) If a biosecurity auditor carries out a biosecurity audit, the auditor must prepare a written report about the audit (an ***audit report***).

(2) The auditor must give the audit report to the following people within 21 days after the audit is completed, or any longer period prescribed by regulation:

(a) the person who required the audit;

(b) the audited authorisation-holder.

(3) An audit report must include the biosecurity auditor's opinion about the following matters:

(a) if the purpose of the audit is to assess an authorisation-holder's eligibility to hold their permit, registration or approval—whether the authorisation-holder meets the eligibility criteria;

(b) whether the authorisation-holder is complying, or capable of complying, with this Act, including the auditors reasons for the opinion;

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(c) if the audit indicates a failure to comply with this Act or another deficiency—

(i) the nature of the failure to comply or deficiency; and

(ii) the action required to remedy the failure or deficiency;

(d) if a previous biosecurity audit has indicated a failure to comply with this Act or another deficiency, the action (if any) taken to remedy the failure or deficiency;

(e) any other matter prescribed by regulation.

(4) A certifier authority or auditor authority must give a copy of an audit report to the director-general if directed to do so by the director-general.

118 Biosecurity audits—immediate reporting requirements

(1) This section applies if a biosecurity auditor becomes aware of, or suspects, any of the following during a biosecurity audit:

(a) that the authorisation-holder has failed to comply with this Act and that failure has resulted in a critical non-compliance prescribed by regulation;

(b) that a person is in possession of biosecurity matter in contravention of this Act;

(c) that a biosecurity event has happened, is happening, or is likely to happen;

(d) that a biosecurity certificate has been issued that is false or misleading in a material particular;

(e) that an event prescribed by regulation has happened, is happening, or is likely to happen.

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(2) The biosecurity auditor must report the matter to the director-general—

(a) orally, as soon as possible, but not later than 24 hours after the auditor becomes aware of the matter; and

(b) in writing, not more than 5 days after the day the auditor becomes aware of the matter.

119 Biosecurity audits—costs

If a person requires a biosecurity audit, and engages a biosecurity auditor to carry out the audit, the person may recover from the audited authorisation-holder the reasonable costs of the audit.

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Part 9 Biosecurity certifiers, auditors and authorities

Division 9.1 Certifiers, auditors and authorities

120 Definitions—pt 9

In this part:

approval-holder—

(a) means an auditor authority, biosecurity auditor, biosecurity certifier or certifier authority; but

(b) does not include a corporation taken to be approved as one of those entities under section 122 (Recognition of interstate certifiers, auditors and authorities).

auditor authority means—

(a) a person approved as an auditor authority by the director-general under section 121 (Approval of certifiers, auditors and authorities); or

(b) a corporation taken to be approved as an auditor authority under section 122 (1) (d).

biosecurity auditor means—

(a) a person approved as a biosecurity auditor by—

(i) the director-general under section 121; or

(ii) an auditor authority; or

(b) an authorised person approved by the director-general as a biosecurity auditor under section 121; or

(c) a corporation taken to be approved as a biosecurity auditor under section 122 (1) (b).

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biosecurity certifier means—

(a) a person approved as a biosecurity certifier by—

(i) the director-general under section 121; or

(ii) a certifier authority; or

(b) an authorised person approved by the director-general as a biosecurity certifier under section 121; or

(c) a corporation taken to be approved as a biosecurity certifier under section 122 (1) (a).

certifier authority means—

(a) a person approved as a certifier authority by the director-general under section 121; or

(b) a corporation taken to be approved as a certifier authority under section 122 (1) (c).

121 Approval of authorised people as certifiers and auditors

The director-general may, by written notice, approve an authorised person as a biosecurity certifier or biosecurity auditor.

122 Recognition of interstate certifiers, auditors and authorities

(1) A corporation that holds an interstate authorisation—

(a) to issue biosecurity certificates under the corresponding biosecurity law—is taken to be approved as a biosecurity certifier; or

(b) to carry out biosecurity audits under the corresponding biosecurity law—is taken to be approved as a biosecurity auditor; or

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(c) to authorise people as biosecurity certifiers under the corresponding biosecurity law—is taken to be approved as a certifier authority; or

(d) to authorise people as biosecurity auditors under the corresponding biosecurity law—is taken to be approved as an auditor authority.

Note 1 An individual who holds an authorisation (however described) as a biosecurity certifier, biosecurity auditor, certifier authority or auditor authority in another State may have automatic deemed registration as a biosecurity certifier, biosecurity auditor, certifier authority or auditor authority in the ACT under the *Mutual Recognition Act 1992* (Cwlth).

Note 2 ***State*** includes the Northern Territory (see Legislation Act, dict, pt 1).

(2) An approval under subsection (1) is subject to—

(a) a condition that before the corporation starts exercising a function under the approval, the corporation gives the director-general a copy of its interstate authorisation; and

(b) a condition that before an individual starts exercising a function on behalf of a corporation under the approval, the corporation gives the director-general written notice of the name and contact details of the individual; and

(c) a condition that the corporation must cooperate with any biosecurity audit required by the director-general; and

(d) any condition imposed under the corresponding biosecurity law; and

(e) any other condition prescribed by regulation.

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(3) In this section:

interstate authorisation means an authorisation (however described) under a corresponding biosecurity law that is not—

(a) suspended, cancelled or otherwise ended under the corresponding biosecurity law; or

(b) subject to a non-compliance notice given under section 123.

123 Interstate authorisations—non-compliance notice

If the director-general is satisfied a corporation taken to be approved under section 122 has failed to comply with this Act, including by failing to comply with a condition of the approval, the director-general may give the corporation a written notice (a ***non-compliance notice***) stating—

(a) the reasons for giving the notice; and

(b) when the notice takes effect.

124 Interstate authorisations—proposed non-compliance notice requirements

(1) Before giving a corporation a non-compliance notice under section 123, the director-general must give the corporation a written notice stating—

(a) that the director-general proposes to give it the non-compliance notice; and

(b) the reasons for proposing to give it the non-compliance notice; and

(c) that the corporation may, by a stated day that is at least 28 days after the day the notice is given to the corporation, make a submission to the director-general about the proposed non-compliance notice.

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(2) If the corporation makes a submission before the stated day, the director-general must take the submission into account in deciding whether to give the corporation the non-compliance notice.

125 Interstate authorisations—revocation of non-compliance notice

(1) This section applies if the director-general has given a corporation a non-compliance notice under section 123.

(2) The director-general may revoke the non-compliance notice if satisfied that the corporation has appropriately dealt with the non-compliance.

126 Authorisation of certifiers, auditors and authorities to exercise functions

For this Act—

(a) a biosecurity certifier is authorised to issue biosecurity certificates; and

(b) a biosecurity auditor is authorised to carry out biosecurity audits; and

(c) a certifier authority is authorised to approve biosecurity certifiers; and

(d) an auditor authority is authorised to approve biosecurity auditors.

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Division 9.2 Approval of certifiers, auditors and authorities

127 Approvals—application

(1) A person may apply to the director-general for approval as—

(a) a biosecurity certifier; or

(b) a biosecurity auditor; or

(c) a certifier authority; or

(d) an auditor authority.

(2) An application must—

(a) be in writing; and

(b) include any information that the director-general reasonably requires to decide the application.

Note It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see Criminal Code, pt 3.4).

128 Approvals—renewal application

(1) An approval-holder may apply to the director-general for renewal of their approval.

(2) An application must—

(a) be in writing; and

(b) include any information that the director-general reasonably requires to decide the application.

(3) If an application for renewal is made before the approval expires, the approval continues in force (unless otherwise suspended, cancelled or surrendered) until the director-general notifies the applicant of a decision on the application.

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129 Approvals—additional information

(1) The director-general may, by written notice, require an applicant for an approval under section 127, or renewal under section 128, to give the director-general additional information that the director-general reasonably needs to decide the application, within a stated time and at a stated place.

(2) If the applicant does not comply with a requirement in the notice, the director-general may refuse to consider the application further.

130 Approvals—change of information

If the information in an application for an approval under section 127, or renewal under section 128, changes before the application is decided, the applicant must give the director-general written notice of the details of the change as soon as practicable.

131 Approvals—decision on application

(1) If a person applies for an approval under section 127, or renewal under section 128, the director-general must—

(a) approve the application; or

(b) refuse the application.

(2) The director-general may refuse the application—

(a) if the director-general is not satisfied that the applicant—

(i) is a suitable person to hold the approval; or

(ii) has the qualifications, skills, knowledge and experience required for the approval; or

(iii) for an application for approval as a certifier authority or auditor authority—meets the criteria in section 133; or

(b) on any grounds prescribed by regulation; or

(c) for any other reason the director-general considers appropriate.

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(3) The director-general must give the applicant written notice of a decision to approve or refuse the application (an ***approval decision notice***).

(4) If the director-general fails to give an applicant an approval decision notice within the period prescribed by regulation, the director-general is taken to have refused the application.

132 Approvals—suitable person

(1) In deciding whether an applicant is a suitable person for section 131 (2) (a) (i), the director-general must consider the following matters:

(a) the applicant's history of compliance with this Act and any other Act that is relevant to the approval, and the applicant's capacity to comply in the future;

(b) the outcome of any biosecurity audit in relation to the applicant;

(c) any other matter prescribed by regulation;

(d) any other matter the decision-maker considers relevant.

(2) If the applicant is a corporation, the director-general must also consider the matters mentioned in subsection (1) for each influential person for the corporation.

133 Approvals—authority criteria

The director-general may approve an applicant under section 131 as a certifier authority or auditor authority only if satisfied that the applicant—

(a) will approve suitable people as biosecurity certifiers or biosecurity auditors, including by requiring biosecurity audits; and

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(b) will monitor approval-holders' ongoing suitability, including by having an appropriate, publicly available, audit frequency policy requiring biosecurity audits; and

(c) will impose appropriate conditions on approvals, including a condition that approval-holders must cooperate with any required biosecurity audit; and

(d) will appropriately provide for quality assurance of approval-holders; and

(e) will identify and deal with approval-holders' noncompliance with any conditions on their approval, including by suspending and cancelling approvals; and

(f) has appropriate procedures for reviewing decisions and resolving disputes about approvals; and

(g) will impose reasonable fees for approvals; and

(h) meets any other requirement prescribed by regulation.

134 Approvals—duration

(1) An approval, and a renewal of an approval, under section 131—

(a) starts on the day it is given, or any later day stated in the approval decision notice; and

(b) expires 5 years after it starts, or any earlier day stated in the notice.

(2) An approval has no effect during any period in which it is suspended.

135 Approvals—amendment

(1) The director-general may amend an approval under section 131 if satisfied that the amendment is necessary.

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(2) An amendment may be made—

(a) on the director-general's own initiative; or

(b) on application by the approval-holder.

136 Approvals—conditions generally

An approval under section 131 includes—

(a) a condition that the approval-holder must cooperate with any biosecurity audit required by the director-general; and

(b) any other condition prescribed by regulation; and

(c) any other condition the director-general considers appropriate, including any of the following:

(i) a condition requiring the approval-holder to exercise their functions under the approval in accordance with all or part of a stated standard, code, guideline, protocol, program or other instrument;

(ii) a condition requiring the approval-holder to take out and maintain an insurance policy that indemnifies the approval-holder against liability in relation to exercising their functions under the approval;

(iii) a condition requiring the approval-holder to do something before their approval is suspended, cancelled or surrendered to ensure that biosecurity matter and carriers are dealt with appropriately on the suspension, cancellation or surrender;

(iv) for a certifier authority or auditor authority—a condition relating to the criteria mentioned in section 133.

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137 Approvals—additional conditions for corporations

If an approval-holder is a corporation, the approval is subject to a condition that the corporation must—

(a) ensure that each individual exercising a function on behalf of the corporation under the approval has the required qualifications, skills, knowledge and experience; and

(b) before an individual starts exercising a function on behalf of the corporation under the approval, give the director-general written notice of the name and contact details of the individual.

138 Offences—fail to comply with approval condition

(1) A person who holds an approval under section 131 must comply with the conditions on the approval.

Maximum penalty: 50 penalty units.

(2) A person who holds an approval under section 131 commits an offence if the person intentionally or negligently fails to comply with a condition on the approval.

Maximum penalty: 1 000 penalty units.

(3) An offence against subsection (1) is a strict liability offence.

139 Approvals—grounds for suspension or cancellation

Each of the following is a ground for suspending or cancelling an approval:

(a) the approval-holder has failed to comply with a provision of this Act;

(b) the approval-holder is not a suitable person to hold the approval;

(c) for a certifier authority or auditor authority—the approval-holder does not satisfy a criterion mentioned in section 133;

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(d) the approval-holder does not have the qualifications, skills, knowledge and experience required to continue to hold the approval;

(e) the approval-holder used false or misleading information to obtain the approval;

(f) a ground for refusing to renew the approval exists;

(g) any other ground prescribed by regulation.

140 Approvals—suspension

If the director-general is satisfied there are grounds to suspend an approval, the director-general may suspend the approval by giving the approval-holder a written suspension notice stating—

(a) the grounds for the suspension; and

(b) when the suspension takes effect; and

(c) when the suspension ends; and

(d) the actions required (if any) for the suspension to be revoked.

141 Approvals—notice of proposed suspension

(1) Before suspending an approval, the director-general must give the approval-holder a written notice stating—

(a) that the director-general proposes to suspend the approval; and

(b) the grounds for the proposed suspension; and

(c) that the approval-holder may, by a stated day that is at least 28 days after the day the notice is given to the approval-holder, make a submission to the director-general about the proposed suspension.

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(2) If the approval-holder makes a submission before the stated day, the director-general must take the submission into account in deciding whether to suspend the approval.

(3) This section is subject to section 142.

142 Approvals—immediate suspension without prior notice

(1) The director-general need not give notice under section 141 before suspending an approval—

(a) if the director-general is satisfied that the suspension is required urgently because the approval-holder has—

(i) failed to comply with the approval, and that failure has resulted in a critical non-compliance prescribed by regulation; or

(ii) engaged in fraudulent behaviour under the approval; or

(b) in an emergency; or

(c) for any other reason prescribed by regulation.

(2) However, if the director-general suspends an approval without giving prior notice, the director-general must give the approval-holder a written notice stating—

(a) the grounds for the suspension; and

(b) that the approval-holder may, by a stated day that is at least 28 days after the day the notice is given to the approval-holder, make a submission to the director-general about the suspension.

(3) If the approval-holder makes a submission before the stated day, the director-general must—

(a) consider the submission; and

(b) decide whether to revoke or continue the suspension; and

(c) give the approval-holder written notice of the decision.

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143 Approvals—cancellation

If the director-general is satisfied there are grounds to cancel an approval, the director-general may cancel the approval by giving the approval-holder a written cancellation notice stating—

(a) the grounds for the cancellation; and

(b) when the cancellation takes effect.

144 Approvals—notice of proposed cancellation

(1) Before cancelling an approval, the director-general must give the approval-holder a written notice stating—

(a) that the director-general proposes to cancel the approval; and

(b) the grounds for the proposed cancellation; and

(c) that the approval-holder may, by a stated day that is at least 28 days after the day the notice is given to the approval-holder, make a submission to the director-general about the proposed cancellation.

(2) If the approval-holder makes a submission before the stated day, the director-general must take the submission into account in deciding whether to cancel the approval.

145 Approvals—surrender

(1) An approval-holder may surrender their approval.

(2) The surrender must—

(a) be in writing; and

(b) be given to the director-general; and

(c) include any information that the director-general reasonably requires to determine the consequences of the surrender.

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Part 10 Biosecurity directions

146 Biosecurity directions

(1) An authorised person may give a direction to a person, including a direction mentioned in sections 148 to 151, for a purpose mentioned in subsection (2) (a ***biosecurity direction***).

(2) An authorised person may give a biosecurity direction that—

(a) prohibits, regulates or controls the person doing something, if the authorised person reasonably believes that the direction is necessary for 1 or more of the following purposes:

(i) to prevent the person from failing to comply or continuing to fail to comply with this Act;

(ii) to manage a biosecurity risk or biosecurity impact;

(iii) to enforce this Act; or

(b) requires the person to do something, if the authorised person reasonably believes that the direction is necessary for 1 or more of the following purposes:

(i) to ensure the person complies with a biosecurity duty imposed on the person under this Act;

(ii) to ensure the person remedies a failure to comply, suspected failure to comply or likely failure to comply with this Act by the person;

(iii) to manage a biosecurity risk posed by a dealing of the person, or suspected dealing of the person, with biosecurity matter, a carrier or a potential carrier;

(iv) to enforce this Act.

(3) A biosecurity direction may be subject to any condition the authorised person considers reasonable in the circumstances.

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147 Biosecurity directions—giving directions

(1) An authorised person may give a biosecurity direction to a person by—

(a) giving the direction in writing; or

(b) giving the direction orally; or

(c) if the direction is to a person at particular premises—

(i) giving the direction to the owner, occupier or person apparently in charge of the premises; and

(ii) displaying the direction in a prominent place at or adjacent to the premises; or

(d) if it is an emergency and the person is an occupier of premises—displaying a copy of the direction in a prominent place at, or adjacent to, the premises.

(2) If a biosecurity direction is given—

(a) orally—an authorised person must, within 7 days, give a written confirmation of the direction to the person (unless the direction has already been complied with); or

(b) in an emergency—

(i) the direction must include a warning that the direction is being given in an emergency; and

(ii) an authorised person must, within 7 days, give a written copy of the direction to the person (unless the direction has already been complied with).

(3) A failure to comply with subsection (2) (b) (i) does not affect the validity of a biosecurity direction.

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148 Biosecurity directions—scope of directions

A biosecurity direction may prohibit, regulate, control or require any of the following:

(a) activities that involve biosecurity matter, a carrier or a potential carrier;

(b) the use of premises for an activity that involves biosecurity matter, a carrier or a potential carrier;

(c) the movement of any biosecurity matter or other thing;

(d) the isolation, confinement or detention of any biosecurity matter or other thing;

(e) treatment measures to be carried out in relation to any biosecurity matter, premises or other thing;

(f) the erection or repair of any fencing, gate or other method of enclosure, or the taking of any other stated security or containment measure in relation to any premises, biosecurity matter or other thing;

(g) the erection of signs;

(h) the provision of samples of any biosecurity matter or other thing;

(i) the testing of any biosecurity matter or other thing;

(j) the obtaining of a biosecurity certificate in relation to any biosecurity matter or other thing;

(k) the marking, branding, tagging or attaching of a device or other identifier to any biosecurity matter or carrier to identify or trace the biosecurity matter or carrier;

(l) the installation or use of a device at any premises to detect or monitor the presence of any biosecurity matter or other thing;

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(m) the installation or use of a device or bait at any premises to capture, kill or otherwise control any biosecurity matter or other thing;

(n) the destruction, disposal or eradication of any biosecurity matter or other thing (including the manner of destruction, disposal or eradication);

(o) any other matter expressly—

(i) authorised by an emergency declaration; or

(ii) authorised by a control declaration; or

(iii) prescribed by regulation.

149 Biosecurity directions—restricting movement of people

(1) In an emergency, a biosecurity direction may do 1 or more of the following:

(a) prohibit, regulate or control entry into, or exit from, any stated premises or stated area;

(b) prohibit, regulate or control the use of any road within, or going into or out of, any stated premises or stated area (including by closing roads).

(2) A biosecurity direction must not prohibit, regulate or control the movement of a person, except as expressly—

(a) provided in subsection (1); or

(b) authorised by an emergency declaration.

(3) However, subsection (2) does not prevent a biosecurity direction being imposed in relation to any biosecurity matter, premises, area, activity or other thing, that has an impact on the movement of a person but is not imposed for the purpose of restricting the movement of the person.

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150 Biosecurity directions—treatment of people

(1) In an emergency, a biosecurity direction may direct a person to carry out an external treatment measure, or permit an external treatment measure to be carried out, in relation to the person.

(2) A biosecurity direction must not require—

(a) a treatment measure to be carried out in relation to a person except as expressly—

(i) provided in subsection (1); or

(ii) authorised by an emergency declaration; or

(b) a person to provide a sample of their blood, hair, saliva or any other body part or body fluid.

151 Biosecurity directions—inspection of people

(1) In an emergency, a biosecurity direction may direct a person to permit an authorised person to inspect the person for biosecurity matter, a carrier or a potential carrier.

(2) However, a requirement under subsection (1) only authorises an authorised person to require the person to do 1 or more of the following:

(a) to submit to a visual inspection (including of the exterior of the person's clothing, accessories and shoes);

(b) to shake, or otherwise move, the person's hair.

152 Biosecurity directions—destruction of things

A biosecurity direction must not require or authorise the destruction of any biosecurity matter or other thing unless—

(a) it is, or the authorised person reasonably suspects it is, prohibited biosecurity matter; or

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(b) it is, or the authorised person reasonably suspects it is, a carrier of prohibited biosecurity matter; or

(c) it is, or the authorised person reasonably suspects it is, a declared pest; or

(d) both of the following apply:

(i) it is, or the authorised person reasonably suspects it is, infected with, infested with or carrying biosecurity matter that poses a biosecurity risk;

(ii) there is no other reasonably practicable treatment measure that could eliminate or minimise the biosecurity risk posed by the biosecurity matter; or

(e) the destruction is expressly authorised or required by—

(i) an emergency declaration; or

(ii) a control declaration.

153 Biosecurity directions—nature conservation and heritage matters

(1) A biosecurity direction must not require the destruction of any of the following:

(a) a native animal, native fish or native plant;

(b) a natural or constructed structure or feature in a reserve;

(c) infrastructure in a reserve;

(d) a site or object of historical, archaeological, palaeontological or geological interest in a reserve;

(e) a heritage place or object.

(2) A failure to comply with this section does not affect the validity of a biosecurity direction.

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(3) This section does not apply to the destruction of a thing if the destruction is expressly authorised or required by—

(a) an emergency declaration; or

(b) a control declaration.

154 Biosecurity directions—recovery of costs

An authorised person may recover from a person to whom a biosecurity direction is given, the reasonable costs of any inspection, test or assessment made in preparing the biosecurity direction.

Note An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

155 Biosecurity directions—authorising actions and recovering costs

(1) If a person (the ***liable person***) fails to comply with a biosecurity direction, the director-general may authorise a person to—

(a) enter premises other than residential premises; and

(b) take any action in relation to the premises, or anything at the premises, that the liable person is required by the direction to take or that is otherwise necessary to remedy the failure to comply.

(2) The director-general may recover from the liable person the reasonable costs of taking action under this section.

Note An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

(3) Any action taken under this section for failure to comply with a biosecurity direction is in addition to the taking of a proceeding for an offence of failing to comply with a biosecurity direction under section 156.

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156 Offences—fail to comply with biosecurity direction

(1) A person must comply with a biosecurity direction.

Maximum penalty: 50 penalty units.

(2) A person commits an offence if the person intentionally or negligently fails to comply with a biosecurity direction.

Maximum penalty: 1 000 penalty units.

(3) An offence against subsection (1) is a strict liability offence.

(4) It is a defence to a prosecution for an offence against this section if the defendant proves they had a reasonable excuse for failing to comply with the direction.

Note The defendant has a legal burden in relation to the matters mentioned in s (4) (see Criminal Code, s 59).

157 Biosecurity directions—exercise of functions in emergencies

(1) A provision of this part that provides for an authorised person to exercise a function in an emergency provides for the authorised person to exercise that function if—

(a) the authorised person is required or authorised to exercise the function under an emergency declaration; or

(b) the authorised person otherwise reasonably believes it is necessary to exercise the function because—

(i) a biosecurity emergency has happened, is happening or is likely to happen; or

(ii) the authorised person reasonably suspects a biosecurity emergency has happened, is happening or is likely to happen.

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(2) A function under this part is taken to have been exercised in an emergency if it is exercised by an authorised person in the circumstances mentioned in subsection (1).

(3) The fact that this part provides for an authorised person to exercise certain functions only in an emergency does not prevent an authorised person from exercising any other function under this part in an emergency.

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Part 11 Biosecurity undertakings

158 Biosecurity undertakings

(1) The director-general may accept a written undertaking (a ***biosecurity undertaking***) given by a person if—

(a) the person has failed to comply with this Act; or

(b) the director-general suspects that the person has failed to comply or is likely to fail to comply with this Act.

(2) The giving of an undertaking by a person does not constitute an admission of guilt in relation to the matters to which the undertaking relates.

159 Biosecurity undertakings—contents

A biosecurity undertaking must state—

(a) details of the person's failure to comply with this Act, or suspected or likely failure to comply with this Act; and

(b) the measures that the person agrees to implement to remedy or prevent the failure, or suspected or likely failure; and

(c) when the measures must be implemented.

160 Biosecurity undertakings—when enforceable

A biosecurity undertaking becomes enforceable when the person giving the undertaking and the director-general agree, in writing, to the terms of the undertaking.

161 Biosecurity undertakings—amendment

(1) A biosecurity undertaking may only be amended if both the person who gave the undertaking and the director-general agree, in writing, to the amendment.

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(2) A biosecurity undertaking must not be amended to provide for a different failure to comply, or suspected or likely failure to comply, with this Act.

162 Biosecurity undertakings—ending

A biosecurity undertaking ends if—

(a) the director-general—

(i) is satisfied that the undertaking is no longer necessary or desirable to ensure that the person complies with this Act; and

(ii) gives written notice to the person who gave the undertaking; or

(b) both the person who gave the undertaking and the director-general agree in writing.

163 Biosecurity undertakings—authorising actions and recovering costs

(1) If a person (the ***liable person***) fails to comply with a biosecurity undertaking, the director-general may authorise a person to—

(a) enter premises other than residential premises; and

(b) take any action in relation to the premises, or anything at the premises, that the liable person is required by the undertaking to take or that is otherwise necessary to remedy the failure.

(2) The director-general may recover from the liable person the reasonable costs of taking action under this section.

Note An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

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(3) Any action taken under this section for failure to comply with a biosecurity undertaking is in addition to the taking of a proceeding for an offence of failing to comply with a biosecurity undertaking under section 166.

164 Biosecurity undertakings—orders requiring compliance

(1) The director-general may apply to the Magistrates Court for an order under subsection (2) if the director-general believes on reasonable grounds that—

(a) a biosecurity undertaking is enforceable against a person; and

(b) the person has failed to comply with the undertaking.

(2) If the Magistrates Court is satisfied that the person has failed to comply with the undertaking, the court may make 1 or more of the following orders:

(a) an order directing the person to comply with the undertaking;

(b) an order discharging or amending the undertaking;

(c) an order directing the person to pay to the Territory—

(i) the costs of the proceeding; and

(ii) the reasonable costs of the director-general in monitoring compliance with the biosecurity undertaking in the future;

(d) any other order that the court considers appropriate.

(3) The making of an order under this section does not affect the liability of a person for an offence.

165 Biosecurity undertakings—effect on other proceedings

A proceeding may not be brought against a person for an offence if—

(a) the conduct constituting the offence is the subject of a biosecurity undertaking; and

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(b) the undertaking is in force; and

(c) the person has not failed to comply with the undertaking.

166 Offences—fail to comply with biosecurity undertaking

(1) A person must comply with a biosecurity undertaking that is enforceable against the person.

Maximum penalty: 50 penalty units.

(2) A person commits an offence if—

(a) a biosecurity undertaking is enforceable against the person; and

(b) the person intentionally or negligently fails to comply with the undertaking.

Maximum penalty: 1 000 penalty units.

(3) An offence against subsection (1) is a strict liability offence.

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Part 12 Authorised people

Division 12.1 General

167 Definitions—pt 12

In this part:

connected—a thing is ***connected*** with an offence if—

(a) the offence has been committed in relation to it; or

(b) it will provide evidence of the commission of the offence; or

(c) it was used, is being used, or is intended to be used, to commit the offence.

occupier, of premises, includes—

(a) a person believed on reasonable grounds to be an occupier of the premises; and

(b) a person apparently in charge of the premises.

offence includes an offence that there are reasonable grounds for believing has been, is being, or will be, committed.

warrant means a warrant issued under division 12.3 (Search warrants).

168 Authorised people

(1) The director-general may appoint a person as an authorised person for this Act.

Note For laws about appointments, see the Legislation Act, pt 19.3.

(2) Also, a police officer is an authorised person for this Act.

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169 Identity cards

(1) The director-general must give each authorised person (other than a police officer) an identity card that states the person's name and appointment as an authorised person, and shows—

(a) a recent photograph of the person; and

(b) the date of issue of the card; and

(c) the date of expiry of the card; and

(d) anything else prescribed by regulation.

(2) A person commits an offence if the person—

(a) stops being an authorised person (other than a police officer); and

(b) does not return the person's identity card to the director-general as soon as practicable (but within 7 days) after the day the person stops being an authorised person.

Maximum penalty: 5 penalty units.

(3) Subsection (2) does not apply to a person if the person's identity card is—

(a) lost or stolen; or

(b) destroyed by someone else.

Note The defendant has an evidential burden in relation to the matters mentioned in s (3) (see Criminal Code, s 58).

(4) An offence against this section is a strict liability offence.

170 Use of assistants

(1) An authorised person exercising a function under this Act may exercise the function with the assistance of any other person the authorised person considers necessary in the circumstances.

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(2) A person assisting an authorised person may—

(a) accompany the authorised person onto any premises that the authorised person is lawfully allowed to enter under this Act; and

(b) take all reasonable steps to assist the authorised person in the exercise of the authorised person's functions under this Act.

171 Use of animals

(1) An authorised person may, if the authorised person considers it necessary in the circumstances, use an animal to assist the authorised person to detect the presence of, or manage, biosecurity matter under this Act.

(2) An authorised person may, in the exercise of their functions as an authorised person, bring an animal onto any premises that the authorised person is lawfully allowed to enter under this Act.

(3) An authorised person who exercises a function in the company of, or using, an animal must take all reasonable steps to ensure that the animal—

(a) is under the control of the authorised person or a person assisting the authorised person; and

(b) does not unnecessarily interact with anyone other than the authorised person or a person assisting the authorised person.

172 Authorised person must show identity card on exercising power

(1) If an authorised person (other than a police officer) exercises a power under this Act (other than a power under section 179) that affects an individual, the authorised person must first show the authorised person's identity card to the individual; or

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(2) If an authorised person (other than a police officer) exercises a power under this Act (other than a power under section 179) that affects a person, other than an individual, the authorised person must first show the authorised person's identity card to an individual the authorised person believes on reasonable grounds is an employee, officer or agent of the person.

(3) If the authorised person is not exercising the power in person, the authorised person must provide the person with other evidence that they are an authorised person.

Division 12.2 Powers of authorised people

173 Power to enter premises

(1) For this Act, an authorised person may—

(a) at any reasonable time, enter premises if the authorised person suspects on reasonable grounds that there is a biosecurity risk at the premises; or

(b) at any reasonable time, enter premises to investigate, monitor or enforce compliance with this Act if the authorised person suspects on reasonable grounds that the premises are occupied by any of the following:

(i) a permit-holder;

(ii) a registered person;

(iii) a biosecurity certifier;

(iv) a certifier authority;

(v) a biosecurity auditor;

(vi) an auditor authority;

(vii) a person who is subject to a biosecurity direction;

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(viii) a person who is subject to an enforceable biosecurity undertaking; or

(c) at any reasonable time, enter premises with a biosecurity auditor to facilitate the conduct of a biosecurity audit; or

(d) at any time, enter premises if the director-general has given the occupier of the premises notice under section 48 (3) (Emergency declarations—authorising actions and recovering costs); or

(e) at any reasonable time, enter premises that the public is entitled to use or that are open to the public (whether or not on payment of money); or

(f) at any time, enter premises with the occupier's consent; or

(g) at any time, enter premises if the authorised person believes on reasonable grounds that the risk is so serious and urgent that immediate entry to the premises without the authority of a search warrant is necessary; or

(h) if a vehicle is stopped under section 187 (Direction to stop vehicle)—enter the vehicle; or

(i) enter premises in accordance with a search warrant.

(2) However, subsection (1) (a), (1) (b), (1) (c), (1) (d) or (1) (e) does not authorise entry into a part of the premises that is being used only for residential purposes.

(3) If an authorised person wants to ask for consent to enter a building or other structure on premises, the authorised person may, without the occupier's consent, enter any land that forms part of the premises to ask for the consent.

(4) To remove any doubt, an authorised person may enter premises under subsection (1) without payment of an entry fee or other charge.

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(5) An authorised person may enter premises under subsection (1) (a), (1) (b), (1) (c), (1) (d), (1) (g), (1) (h) or (1) (i) using any necessary and reasonable force.

(6) Entry into premises under this section may include entry on foot, by vehicle or other means.

174 Production of identity card

(1) An authorised person and any other person who is accompanying the authorised person may not remain at premises entered under this part if the authorised person does not produce when asked by the occupier—

(a) for an authorised person who is not a police officer—their identity card; or

(b) for a police officer—evidence that they are a police officer.

(2) If an authorised person does not comply with a request made by an occupier under subsection (1), the authorised person and any other person accompanying the authorised person (other than a police officer) must immediately leave the premises.

175 Consent to entry

(1) When seeking the consent of an occupier to enter premises under section 173 (1) (f), an authorised person must—

(a) produce either—

(i) for an authorised person who is not a police officer—

(A) their identity card; or

(B) evidence that they are an authorised person; or

(ii) for a police officer—evidence that they are a police officer; and

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(b) tell the occupier—

(i) the purpose of the entry; and

(ii) the reason for, and identity of, any other person accompanying the authorised person; and

(iii) that anything found and seized under this part may be used in evidence in court; and

(iv) that consent may be refused.

(2) If the occupier consents, the authorised person must ask the occupier to give their consent in writing (an ***acknowledgment of consent***)—

(a) that the occupier was told—

(i) the purpose of the entry; and

(ii) the reason for, and identity of, any other person accompanying the authorised person; and

(iii) that anything found and seized under this part may be used in evidence in court; and

(iv) that consent may be refused; and

(b) that the occupier consents to the entry; and

(c) stating the time and date when consent was given.

(3) If the occupier gives an acknowledgment of consent, the authorised person must be reasonably satisfied that the occupier has a copy of the acknowledgment.

(4) A court must find that the occupier did not consent to entry to the premises by the authorised person under this part if—

(a) the question whether the occupier consented to the entry arises in a proceeding in the court; and

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(b) an acknowledgment of consent for the entry is not produced in evidence; and

(c) it is not proved that the occupier consented to the entry.

176 General powers on entry to premises

(1) An authorised person who enters premises under this part may, for this Act, do 1 or more of the following in relation to the premises or anything at the premises:

(a) inspect anything, including using reasonable force to break open or otherwise access a container, vehicle or other thing being used, or suspected of being used, to hold or contain another thing;

(b) inspect and copy, or take extracts from, documents relating to a failure to comply, or likely failure to comply, with this Act;

(c) take images or other recordings;

(d) move any biosecurity matter or other thing;

(e) isolate, confine or detain any biosecurity matter or other thing;

(f) carry out a treatment measure in relation to any biosecurity matter, premises or other thing;

(g) erect or repair any fencing, gate or any other method of enclosure, or carry out any other security or containment measure in relation to the premises or any biosecurity matter or other thing;

(h) erect signs;

(i) take and remove samples of anything;

(j) carry out any tests that the authorised person considers necessary;

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(k) mark, brand, tag, or attach a device or other identifier to any biosecurity matter or carrier to identify or trace the biosecurity matter or carrier;

(l) install or use a device at the premises to detect or monitor the presence of any biosecurity matter or other thing;

(m) install or use a device or bait at the premises to capture, kill or otherwise control any biosecurity matter or other thing;

(n) destroy, dispose of or eradicate anything, in accordance with this Act;

(o) do anything else prescribed by regulation.

(2) A person commits an offence if the person interferes with a sign, device, or any other equipment placed by an authorised person under subsection (1).

Maximum penalty: 50 penalty units.

(3) A person commits an offence if the person intentionally or negligently interferes with a sign, device, or any other equipment placed by an authorised person under subsection (1).

Maximum penalty: 1 000 penalty units.

(4) An offence against subsection (2) is a strict liability offence.

(5) It is a defence to a prosecution for an offence against subsection (2) if the defendant proves that they had a reasonable excuse for interfering with the sign, device or other equipment.

Note The defendant has a legal burden in relation to the matters mentioned in s (5) (see Criminal Code, s 59).

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177 Power to require information, documents, etc

(1) An authorised person who enters premises under this part may, for this Act, require the occupier, or anyone else at the premises, to do 1 or more of the following in relation to the premises or anything at the premises:

(a) to give information, answer questions or produce documents or anything else (whether the information, document or other thing is at the premises or elsewhere) that the occupier or person at the premises has, or has access to, that are reasonably necessary to exercise a function under this Act;

(b) to give the authorised person copies of documents produced under paragraph (a) that are reasonably necessary to exercise a function under this Act;

(c) to give the authorised person reasonable help to exercise a function under this part.

Examples—require the occupier to give reasonable help

1 require the occupier to confine or move an animal in their possession

2 require the occupier to provide facilities, including yards and crushes, that are required to inspect, treat or take samples from any biosecurity matter, carrier, potential carrier or other thing

3 require the occupier to restrain an animal

(2) A person must take reasonable steps to comply with a requirement made of the person under subsection (1).

Maximum penalty: 50 penalty units.

(3) A person commits an offence if the person fails to take reasonable steps to comply with a requirement made of the person under subsection (1).

Maximum penalty: 1 000 penalty units.

(4) An offence against subsection (2) is a strict liability offence.

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178 Recovery of costs for action taken

If action is taken by an authorised person against a person (the ***liable person***) under section 176, the director-general may recover from the liable person the reasonable costs of taking the action if, in the opinion of the director-general, it is reasonable to do so considering the following:

(a) any biosecurity duty or obligation of the liable person under this Act;

(b) any failure to comply or likely failure to comply with this Act by the liable person;

(c) any other matter the director-general considers relevant in the circumstances.

Note An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

179 Power to obtain, inspect and copy records

(1) An authorised person may, by written notice, require a person to give the authorised person information, or produce documents or anything else, that the person has, or has access to, that are reasonably required by the authorised person for this Act.

(2) A person must take reasonable steps to comply with a requirement made of the person under this section.

Maximum penalty: 50 penalty units.

(3) A person commits an offence if the person fails to take reasonable steps to comply with a requirement made of the person under this section.

Maximum penalty: 1 000 penalty units.

(4) An offence against subsection (2) is a strict liability offence.

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180 Power to require answers to questions

(1) An authorised person may require a person to answer questions in relation to a matter under this Act if the authorised person reasonably believes that the person may have knowledge about the matter.

(2) An authorised person may, by written notice, require a person to attend the place stated in the notice, at the time stated in the notice, in order to answer questions about a matter that the authorised person reasonably believes the person may have knowledge.

(3) The place and time are to be—

(a) nominated by the person; or

(b) if the nominated place and time are not reasonable in the circumstances, or no place and time are nominated—a place and time nominated by the authorised person that is reasonable in the circumstances.

(4) A person who is the subject of a requirement made under this section must comply with the requirement.

Maximum penalty: 50 penalty units.

(5) A person who is the subject of a requirement made under this section commits an offence if the person fails to comply with the requirement.

Maximum penalty: 1 000 penalty units.

(6) An offence against subsection (4) is a strict liability offence.

181 Evidence may be recorded

(1) An authorised person may record information given orally under this division if, before the information is given, the authorised person has informed the person giving the information that it is to be recorded.

(2) A record may be made using any method that the authorised person considers reasonable in the circumstances.

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(3) If an authorised person makes a record, they must give a copy of the record to the person who provided the information as soon as practicable after making the record.

182 Abrogation of privilege against self-incrimination

(1) A person is not excused from answering a question or providing information or a document under this part on the ground that the answer to the question, or the information or document, may tend to incriminate the person or expose the person to a penalty.

(2) However, any information, document or thing obtained, directly or indirectly, because of the giving of the answer or the production of the document is not admissible in evidence against the person in a civil or criminal proceeding, other than a proceeding for an offence arising out of the false or misleading nature of the answer, information or document.

183 Warning to be given

(1) Before requiring a person to comply with a requirement under section 177, section 179 or section 180 (1), an authorised person must warn the person—

(a) that failure to comply constitutes an offence; and

(b) about the effect of section 182.

(2) It is not an offence for an individual to refuse to answer a question put by an authorised person or provide information or a document to an authorised person under section 177, section 179 or section 180 (1) on the ground that the question, information or document might tend to incriminate the individual, unless the individual was first given the warning mentioned in subsection (1) (b).

(3) Nothing in this section prevents an authorised person from obtaining and using evidence given to the authorised person voluntarily by any person.

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184 Power to seize things

(1) An authorised person who enters premises under this part with the occupier's consent may seize anything at the premises if seizure of the thing is consistent with the purpose of the entry told to the occupier when seeking the occupier's consent.

(2) An authorised person who enters premises under a warrant under this part may seize anything at the premises that the authorised person is authorised to seize under the warrant.

(3) An authorised person who enters premises under this part (whether with the occupier's consent, under a warrant or otherwise) may seize—

(a) anything at the premises if satisfied on reasonable grounds that—

(i) the thing is connected with an offence against this Act; and

(ii) the seizure is necessary to prevent the thing from being—

(A) concealed, lost or destroyed; or

(B) used to commit, continue or repeat the offence; or

(b) any biosecurity matter or other thing if the authorised person reasonably believes that seizure of the biosecurity matter or other thing is necessary to manage a biosecurity risk posed by the biosecurity matter or thing.

(4) Having seized a thing, an authorised person may—

(a) remove the thing from the premises where it was seized (the ***place of seizure***) to another place; or

(b) leave the thing at the place of seizure but restrict access to it.

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(5) A person commits an offence if—

(a) the person interferes with a seized thing, or anything containing a seized thing, to which access has been restricted under subsection (4); and

(b) the person does not have an authorised person's approval to interfere with the thing.

Maximum penalty: 50 penalty units.

(6) A person commits an offence if the person—

(a) intentionally or negligently interferes with a seized thing, or anything containing a seized thing, to which access has been restricted under subsection (4); and

(b) does not have an authorised person's approval to interfere with the thing.

Maximum penalty: 1 000 penalty units.

(7) An offence against subsection (5) is a strict liability offence.

185 Direction to give name and address

(1) This section applies if an authorised person believes on reasonable grounds that a person—

(a) has committed, is committing or is about to commit an offence against this Act; or

(b) may be able to assist in the investigation of an offence against this Act.

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(2) The authorised person may direct the person to immediately give the authorised person any of the following:

(a) the person's full name;

(b) the person's home address;

(c) evidence of the person's full name or home address.

Note 1 The authorised person must first show the person their identity card (see s 174).

Note 2 It is an offence to make a false or misleading statement or give false or misleading information (see Criminal Code, pt 3.4).

(3) If an authorised person gives a direction to a person, the authorised person must tell the person that it is an offence if the person fails to comply with the direction.

(4) If an authorised person gives a direction to a person, the authorised person must give the direction in a language, or in a way of communicating, that the authorised person believes on reasonable grounds the person is likely to understand.

186 Offences—fail to comply with direction to give name and address

(1) A person must comply with a direction under section 185.

Maximum penalty: 50 penalty units.

(2) A person commits an offence if the person fails to comply with a direction under section 185.

Maximum penalty: 1 000 penalty units.

(3) An offence against subsection (1) is a strict liability offence.

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(4) This section does not apply to a person if the authorised person, before giving the direction, did not—

(a) for an authorised person (other than a police officer)—produce the authorised person's identity card for inspection by the person; or

(b) tell the person that failure to comply with the direction is an offence.

(5) Also, for a direction under section 185 (2) (c), this section does not apply if the person produces the evidence not more than 24 hours after the day the direction was made.

Note The defendant has an evidential burden in relation to the matters mentioned in s (4) and s (5) (see Criminal Code, s 58).

187 Direction to stop vehicle

(1) This section applies if an authorised person believes on reasonable grounds that a vehicle, or something in a vehicle, is—

(a) associated with a biosecurity risk; or

(b) connected with an offence against this Act.

(2) To exercise a function under this part, an authorised person may direct the driver of a vehicle to stop the vehicle—

(a) without delay; or

(b) at the nearest place where the vehicle can be safely stopped as indicated by the authorised person.

(3) A direction may be given to a driver orally or by means of a sign or signal (electronic or otherwise) or in any other way.

(4) A direction to a driver ceases to be operative to the extent that an authorised person—

(a) gives the driver or other person a later inconsistent direction; or

(b) indicates to the driver that the direction is no longer operative.

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(5) An authorised person may direct a vehicle to be stopped only for the amount of time necessary for the authorised person to exercise the function.

Note An authorised person may enter and search a stopped vehicle (see s 173 (1) (h)).

188 Offences—fail to comply with direction to stop vehicle

(1) A person must comply with a direction under section 187.

Maximum penalty: 50 penalty units.

(2) A person commits an offence if the person fails to comply with a direction under section 187.

Maximum penalty: 1 000 penalty units.

(3) An offence against subsection (1) is a strict liability offence.

(4) This section does not apply if the authorised person (other than a police officer) did not, as soon as practicable after giving the direction, produce the authorised person's identity card for inspection by the person.

Note The defendant has an evidential burden in relation to the matters mentioned in s (4) (see Criminal Code, s 58).

(5) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that they had a reasonable excuse for failing to comply with the direction.

Note The defendant has a legal burden in relation to the matters mentioned in s (5) (see Criminal Code, s 59).

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Division 12.3 Search warrants

189 Warrants generally

(1) An authorised person may apply to a magistrate for a warrant to enter premises.

(2) The application must—

(a) be sworn; and

(b) state the grounds on which the warrant is sought.

(3) The magistrate may refuse to consider the application until the authorised person gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

(4) The magistrate may issue a warrant only if satisfied there are reasonable grounds for suspecting—

(a) there is a particular thing or activity connected with an offence against this Act; and

(b) the thing or activity—

(i) is, or is being engaged in, at the premises; or

(ii) may be, or may be engaged in, at the premises within the next 14 days.

(5) The warrant must state—

(a) that an authorised person may, with any necessary assistance and force, enter the premises and exercise the authorised person's powers under this part; and

(b) the offence for which the warrant is issued; and

(c) the things that may be seized under the warrant; and

(d) the hours when the premises may be entered; and

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(e) the date, within 14 days after the day of the warrant's issue, when the warrant ends.

190 Warrants—application other than in person

(1) An authorised person may apply for a warrant by phone, email, letter or other form of communication if the authorised person considers it necessary because of—

(a) urgent circumstances; or

(b) other special circumstances.

(2) Before applying for the warrant, the authorised person must prepare an application stating the grounds on which the warrant is sought.

(3) The authorised person may apply for the warrant before the application is sworn.

(4) After issuing the warrant, the magistrate must immediately give a written copy to the authorised person if it is practicable to do so.

(5) If it is not practicable to give a written copy of the warrant to the authorised person—

(a) the magistrate must tell the authorised person—

(i) what the terms of the warrant are; and

(ii) the date and time the warrant was issued; and

(b) the authorised person must complete a form of warrant (the ***warrant form***) and write on it—

(i) the magistrate's name; and

(ii) the date and time the magistrate issued the warrant; and

(iii) the terms of the warrant.

(6) The written copy of the warrant, or the warrant form properly completed by the authorised person, authorises the entry and the exercise of the authorised person's powers under this part.

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(7) The authorised person must, at the first reasonable opportunity, send to the magistrate—

(a) the sworn application; and

(b) if the authorised person completed a warrant form—the completed warrant form.

(8) On receiving the documents mentioned in subsection (7), the magistrate must attach them to the warrant.

(9) A court must find that a power exercised by an authorised person was not authorised by a warrant under this section if—

(a) a question arises in a proceeding before the court whether the exercise of power was authorised by a warrant; and

(b) the warrant is not produced in evidence; and

(c) it is not proved that the exercise of power was authorised by a warrant under this section.

191 Search warrants—announcement before entry

(1) An authorised person must, before anyone enters premises under a search warrant—

(a) announce that the authorised person is authorised to enter the premises; and

(b) give anyone at the premises an opportunity to allow entry to the premises; and

(c) if the occupier of the premises, or someone else who apparently represents the occupier, is present at the premises—identify themselves to the person.

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(2) The authorised person is not required to comply with subsection (1) if the authorised person believes on reasonable grounds that immediate entry to the premises is required to ensure—

(a) the safety of anyone (including the authorised person or any person assisting an authorised person); or

(b) that the effective execution of the warrant is not frustrated.

192 Details of search warrant to be given to occupier etc

If the occupier of the premises, or someone else who apparently represents the occupier, is present at the premises while a search warrant is being executed, the authorised person or a person assisting must make available to the person—

(a) a copy of—

(i) the warrant; or

(ii) if section 190 (5) applies—the completed warrant form; and

(b) a document setting out the rights and obligations of the person.

193 Occupier entitled to be present during search etc

(1) If the occupier of the premises, or someone else who apparently represents the occupier, is present at the premises while a search warrant is being executed, the person is entitled to observe the search being conducted.

(2) However, the person is not entitled to observe the search if—

(a) to do so would impede the search; or

(b) the person is under arrest, and allowing the person to observe the search being conducted would interfere with the objectives of the search.

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(3) This section does not prevent 2 or more areas of the premises being searched at the same time.

Division 12.4 Return and forfeiture of things seized

194 Receipt for things seized

(1) As soon as practicable after a thing is seized by an authorised person under this part, the authorised person must give a receipt for it to the person from whom it was seized.

(2) If, for any reason, it is not practicable to comply with subsection (1), the authorised person must leave the receipt, secured conspicuously at the place of seizure under section 184 (Power to seize things).

(3) A receipt under this section must include the following:

(a) a description of the thing seized;

(b) an explanation of why the thing was seized;

(c) the authorised person's name, and how to contact the authorised person;

(d) if the thing is moved from the premises where it is seized—where the thing is to be taken.

195 Moving things to another place for inspection, processing or testing under search warrant

(1) A thing found at premises entered under a search warrant may be moved to another place for inspection, processing or testing to decide whether it may be seized under the warrant if—

(a) both of the following apply:

(i) there are reasonable grounds for believing that the thing is or contains something to which the warrant relates;

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(ii) it is significantly more practicable to do so considering the timeliness and cost of inspection, processing or testing the thing at another place and the availability of expert assistance; or

(b) the occupier of the premises agrees in writing.

(2) The thing may be moved to another place for inspection, processing or testing for not longer than 72 hours.

(3) An authorised person may apply to a magistrate for an extension of time if the authorised person believes on reasonable grounds that the thing cannot be inspected, processed or tested within 72 hours.

(4) The authorised person must give notice of the application to the occupier of the premises, and the occupier is entitled to be heard on the application.

(5) If a thing is moved to another place under this section, the authorised person must, if practicable—

(a) tell the occupier of the premises the address of the place where, and time when, the inspection, processing or testing will be carried out; and

(b) allow the occupier or the occupier's representative to be present during the inspection, processing or testing.

(6) The provisions of this part relating to the issue of search warrants apply, with any necessary changes, to the giving of an extension under this section.

196 Access to things seized

A person who would, apart from the seizure, be entitled to inspect a thing seized under this part may—

(a) inspect the thing; and

(b) take images or other recordings of the thing; and

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(c) if the thing is a document—take extracts from, or make copies of, the thing.

197 Return of things seized

A thing seized under this part must be returned to its owner, or reasonable compensation must be paid to the owner by the Territory for the loss of the thing, if—

(a) an infringement notice for an offence connected with the thing is not served on the owner within 1 year after the day of the seizure and either—

(i) a prosecution for an offence connected with the thing is not begun within the 1-year period; or

(ii) a prosecution for an offence connected with the thing is begun within the 1-year period but the court does not find the offence proved; or

(b) an infringement notice for an offence connected with the thing is served on the owner within 1 year after the day of the seizure, the infringement notice is withdrawn and—

(i) a prosecution for an offence connected with the thing is not begun within the 1-year period; or

(ii) a prosecution for an offence connected with the thing is begun within the 1-year period but the court does not find the offence proved; or

(c) an infringement notice for an offence connected with the thing is served on the owner within 1 year after the day of the seizure, liability for the offence is disputed in accordance with the *Magistrates Court Act 1930*, section 132 (Disputing liability for infringement notice offence) and—

(i) an information is not laid in the Magistrates Court against the person for the offence within 60 days after the day notice is given under that section; or

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(ii) the Magistrates Court does not find the offence proved.

198 Forfeiture of things seized

(1) This section applies if—

(a) a thing seized under this part is not required to be returned, or reasonable compensation is not required to be paid, under section 197; or

(b) the director-general is satisfied that—

(i) the owner of a seized thing cannot be found after making reasonable inquiries (given the thing's apparent value); or

(ii) a seized thing cannot be returned to its owner after making reasonable efforts (given the thing's apparent value).

(2) The thing—

(a) is forfeited to the Territory; and

(b) may be sold, destroyed or otherwise disposed of as the director-general directs.

Division 12.5 Limits on powers of authorised people

199 Authorised people—treatment of people

(1) An authorised person must not do either of the following unless expressly authorised by an emergency declaration or a biosecurity direction:

(a) inspect a person;

(b) require a treatment measure to be carried out in relation to a person.

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(2) An authorised person must not require a person—

(a) to submit to testing; or

(b) to provide a sample of their blood, hair, saliva or any other body part or body fluid.

200 Authorised people—restricting movement of people

(1) An authorised person must not prohibit, regulate or control the movement of a person unless expressly authorised by—

(a) an emergency declaration; or

(b) a biosecurity direction.

(2) However, subsection (1) does not prevent an authorised person from doing anything in relation to any biosecurity matter, premises, area, activity or other thing that has an impact on the movement of a person but is not done for the purpose of restricting the movement of the person.

Example

An authorised person constructs a fence on premises to isolate particular animals from other animals. This may have an impact on the movement of a person but is not done for that purpose.

201 Authorised people—destruction of things

(1) An authorised person may destroy a thing under this Act if—

(a) it is, or the authorised person reasonably suspects it is, prohibited biosecurity matter; or

(b) it is, or the authorised person reasonably suspects it is, a carrier of prohibited biosecurity matter; or

(c) it is, or the authorised person reasonably suspects it is, a declared pest; or

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(d) both of the following apply:

(i) it is, or the authorised person reasonably suspects it is, infected with, infested with or carrying biosecurity matter that poses a biosecurity risk;

(ii) the authorised person is satisfied that there is no reasonably practicable and available—

(A) treatment measure that could eliminate or minimise the biosecurity risk posed by the biosecurity matter; or

(B) way to determine or confirm whether the thing is infected with, infested with or carrying the biosecurity matter; or

(e) the destruction is expressly authorised or required by—

(i) an emergency declaration; or

(ii) a control declaration; or

(iii) a biosecurity direction given in an emergency.

(2) This section does not apply to the destruction of a thing that has been forfeited to the Territory.

202 Authorised people—notice of proposed destruction

(1) An authorised person must not destroy anything in the exercise of a function under this Act unless, before destroying the thing, the authorised person—

(a) gives written notice of the proposed destruction to the owner or person in charge of the thing; or

(b) is satisfied that the owner or person in charge of the thing has already been given written notice of the proposed destruction.

(2) The notice must be given at least 24 hours before the thing is destroyed.

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(3) Subsection (1) does not apply if—

(a) the destruction of the thing is authorised, or required, to be carried out immediately or without notice under—

(i) an emergency declaration; or

(ii) a control declaration; or

(b) there appears to be no-one immediately in control of the thing, and the owner or person in charge cannot be found after reasonable inquiry; or

(c) the authorised person reasonably believes that the thing must be destroyed without delay in order to manage an immediate and significant biosecurity risk posed by the thing, and it is not practicable to give notice before the thing is destroyed; or

(d) in the case of an animal, the authorised person reasonably believes that delaying the destruction of the animal will cause unreasonable and unjustifiable pain or suffering to the animal; or

(e) the authorised person considers that, in the circumstances, the destruction must be carried out without delay or prior notice to the owner or person in charge.

(4) This section does not apply to the destruction of a thing that has been forfeited to the Territory.

203 Authorised people—nature conservation and heritage matters

(1) An authorised person must not, under this Act, destroy any of the following:

(a) a native animal, native fish or native plant;

(b) a natural or constructed structure or feature in a reserve;

(c) infrastructure in a reserve;

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(d) a site or object of historical, archaeological, palaeontological or geological interest in a reserve;

(e) a heritage place or object.

(2) This section does not apply to the destruction of a thing if the destruction is expressly authorised or required by—

(a) an emergency declaration; or

(b) a control declaration.

Division 12.6 Miscellaneous

204 Damage etc to be minimised

(1) In the exercise, or purported exercise, of a function under this part, an authorised person must take all reasonable steps to ensure that the authorised person, and any person assisting the authorised person, causes as little inconvenience, detriment and damage as is practicable.

(2) If an authorised person, or a person assisting an authorised person, damages anything in the exercise or purported exercise of a function under this part, the authorised person must give written notice of the particulars of the damage to the person whom the authorised person believes on reasonable grounds is the owner of the thing.

(3) If the damage happens at premises entered under this part in the absence of the occupier, the notice may be given by leaving it secured in a conspicuous place at the premises.

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Part 13 Court proceedings

Division 13.1 Court proceedings generally

204A Time for beginning prosecution for certain offences

(1) This section applies to an offence against the following provisions:

(a) section 27 (1);

(b) section 31 (1);

(c) section 34 (1);

(d) section 36 (1).

(2) A prosecution for the offence must be begun not later than 2 years after the day the offence is committed.

205 Evidence of analysts

(1) A certificate of an analyst certifying the result of an analysis or examination is admissible in a proceeding and is evidence of—

(a) the facts stated in the certificate; and

(b) the correctness of the result of the analysis or examination.

(2) A certificate of an analyst certifying that, on receipt of a container holding a sample submitted to the analyst under this Act, the container was sealed and the seal securing the container was unbroken, is admissible in a proceeding and is evidence—

(a) of the facts stated in the certificate; and

(b) that the sample—

(i) was the same sample as the one submitted to the analyst under this Act; and

(ii) had not been tampered with after sealing.

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(3) A document purporting to be a certificate under this section is taken to be a certificate under this section unless the contrary is proved.

206 Injunctions to restrain contravention of requirements

(1) This section applies if a person (the ***relevant person***) has engaged, is engaging, or proposes to engage, in conduct contravening a requirement under this Act.

(2) The director-general or anyone else may apply to the Supreme Court for an injunction.

(3) On application under subsection (2), the Supreme Court may grant an injunction—

(a) restraining the relevant person from engaging in the conduct; and

(b) if satisfied that it is desirable to do so—requiring the relevant person to do anything.

(4) The Supreme Court may grant an injunction restraining a relevant person from engaging in conduct of a particular kind—

(a) if satisfied that the person has engaged in conduct of that kind, whether or not it appears to the court that the person intends to engage again, or to continue to engage, in conduct of that kind; or

(b) if it appears to the court that, if an injunction is not granted, it is likely the person will engage in conduct of that kind, whether or not the person has previously engaged in conduct of that kind and whether or not there is an likely to happen danger of substantial damage to someone else if the person engages in conduct of that kind.

(5) This section applies whether or not a proceeding for an offence against this Act has begun or is about to begin.

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207 Recovery of costs, expenses and compensation after offence proved

(1) Subsection (2) applies if, after a court convicts a person or finds a person guilty of an offence against this Act, the Territory incurs costs and expenses related to—

(a) managing a biosecurity risk or biosecurity impact caused by the commission of the offence; or

(b) making good any resulting biosecurity impact.

(2) The director-general may recover from the person the amount of the costs and expenses incurred.

(3) Subsection (4) applies if, after a court convicts a person or finds a person guilty of an offence against this Act, another person (the ***injured person***)—

(a) suffers property loss or damage because of the commission of the offence; or

(b) incurs costs and expenses in managing the loss or damage (or attempting to do so).

(4) The injured person may recover from the person the amount of the loss or damage or costs and expenses incurred.

Note An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

Division 13.2 Court orders

208 Orders—generally

(1) If a court convicts a person, or finds a person guilty, of an offence against this Act, the court may make 1 or more orders under this part against the person.

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(2) An order may be made under this part in addition to any penalty that may be imposed, or any other action that may be taken in relation to the offence.

(3) An order may be made under this part regardless of whether any penalty is imposed, or other action is taken, in relation to the offence.

209 Orders for restoration and prevention

(1) If a court convicts a person, or finds a person guilty, of an offence against this Act, the court may order the person to take the steps stated in the order, within the time stated in the order (or any further time that the court, on application, may allow)—

(a) to manage any biosecurity impact caused by the commission of the offence; or

(b) to make good any resulting biosecurity impact; or

(c) to prevent the continuation or recurrence of the offence.

(2) A person commits an offence if the person—

(a) is subject to an order under this section; and

(b) intentionally fails to comply with the order.

Maximum penalty: 1 000 penalty units.

210 Prohibition orders

(1) If a court convicts a person, or finds a person guilty, of an offence against this Act, the court may do 1 or more of the following:

(a) order the person not to deal with any stated biosecurity matter or carrier, or not to engage in any stated dealing with stated biosecurity matter or carrier;

(b) cancel, suspend or amend any of the following authorisations held by the person:

(i) biosecurity registration;

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(ii) a biosecurity permit;

(iii) approval as a biosecurity certifier;

(iv) approval as a biosecurity auditor;

(v) approval as a certifier authority;

(vi) approval as an auditor authority;

(c) disqualify the person from applying for an authorisation mentioned in paragraph (b);

(d) extend any biosecurity undertaking given by the person.

(2) The court may fix a period during which the order applies and impose any other requirements the court considers necessary or convenient for enforcement of the order.

(3) A person commits an offence if the person—

(a) is subject to an order under this section; and

(b) intentionally fails to comply with the order.

Maximum penalty: 1 000 penalty units.

211 Publication orders

(1) If a court convicts a person, or finds a person guilty, of an offence against this Act, the court may order the person to take stated action to publicise 1 or more of the following:

(a) the offence, including the circumstances of the offence;

(b) the biosecurity impact of the offence;

(c) any other consequence and any other order made against the person.

(2) The court may fix a period for compliance and impose any other requirement that the court considers necessary or convenient for enforcement of the order.

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(3) A person commits an offence if the person—

(a) is subject to an order under this section; and

(b) intentionally fails to comply with the order.

Maximum penalty: 100 penalty units.

(4) If a person fails to comply with an order under subsection (1), the director-general may take action to carry out the order.

(5) The director-general may recover from the person the reasonable costs of taking action under this section.

Note An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

212 Orders to undertake training or other projects

(1) If a court convicts a person, or finds a person guilty, of an offence against this Act, the court may order the person to do 1 or more of the following:

(a) attend, or cause an employee or contractor of the person to attend, a training or other course stated by the court;

(b) carry out, or contribute a stated amount to the cost of carrying out, a stated project that will promote the objects of this Act.

(2) The court may fix a period for compliance and impose any other requirements that the court considers necessary or convenient for enforcement of the order.

(3) A person commits an offence if the person—

(a) is subject to an order under this section; and

(b) intentionally fails to comply with the order.

Maximum penalty: 100 penalty units.

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Part 14 Compensation

Note Additional compensation may be payable under a national biosecurity agreement.

213 Meaning of *emergency biosecurity matter*—pt 14

In this part:

emergency biosecurity matter means biosecurity matter that is the subject of an emergency declaration.

214 Compensation payable to owners of animals, plants and property

Compensation is payable under this part to the owner of—

(a) an animal, plant or property that has been destroyed in accordance with an emergency declaration; and

(b) an animal or plant if the director-general is satisfied that—

(i) the animal or plant has died because of emergency biosecurity matter; and

(ii) there has been no unreasonable delay in reporting the death of the animal or plant; and

(iii) the destruction of the animal or plant would have been required under this Act had the animal or plant not died.

215 Amount of compensation payable

(1) Unless the director-general and the owner of the animal, plant or property agree otherwise, the amount of compensation payable under section 214 is—

(a) the market value of the animal, plant or property—

(i) for an animal, plant or property mentioned in section 214 (a)—immediately before it was destroyed; or

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(ii) for an animal or plant mentioned in section 214 (b)—immediately before the director-general was notified that it was affected by, or died because of, emergency biosecurity matter; and

(b) any additional amount prescribed by regulation.

(2) The method for assessing the market value of an animal, plant or property—

(a) must consider the animal, plant or property as if it were not affected by the emergency biosecurity matter; and

(b) may be prescribed by regulation.

216 Other losses excluded

No compensation is payable under this part for any loss of profit, loss caused by breach of contract, loss of production or any other consequential loss.

217 Time limit for claims

A claim for compensation under this part must be made, in writing, to the director-general within 90 days after the destruction or death of the animal, plant or property, or any longer period decided by the director-general.

218 Grounds for refusing or reducing claim

(1) The director-general may direct, in writing, that all or part of any compensation payable under this part, not be paid if the director-general is satisfied that—

(a) the owner of the animal, plant or property has committed an offence in the ACT or elsewhere in Australia and the conduct constituting the offence has caused or contributed to—

(i) the spread of the emergency biosecurity matter; or

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(ii) the destruction or death of an animal, plant or property for which the claim for compensation is made; or

(b) the owner of the animal, plant or property is indemnified for the loss caused by the death or destruction under a contract of insurance; or

(c) the emergency biosecurity matter was, immediately before the emergency declaration, kept at premises where the animal, plant or property was located before its death or destruction in contravention of a requirement imposed under this Act; or

(d) the owner of the animal, plant or property has made a claim for compensation that is false or misleading in a material particular; or

(e) the animal, plant or property was required to be destroyed under a control declaration, biosecurity direction or other instrument made under this Act (other than an emergency declaration).

(2) The director-general may direct that compensation otherwise payable under this part, not be paid in any other circumstances prescribed by regulation.

Note An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

219 Power to correct decision and require repayment

(1) If the director-general decides a claim, and is later satisfied that the decision is incorrect, the director-general may amend or reverse the decision.

(2) A decision cannot be amended or reversed under this section more than 5 years after it is made.

(3) Subsection (2) does not apply to a decision that was made on the basis of false or misleading information provided by a claimant or a person on behalf of the claimant.

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(4) If the director-general amends or reverses a decision, the director-general may, in writing, direct the claimant to repay an amount of compensation paid under this part.

Note An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

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Part 15 Notification and review of decisions

220 Meaning of *reviewable decision*—pt 15

In this part:

reviewable decision means a decision mentioned in Schedule 1, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

221 Reviewable decision notices

If a decision-maker makes a reviewable decision, the decision-maker must give a reviewable decision notice to each person mentioned in schedule 1, column 4 in relation to the decision.

Note 1 The decision-maker must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

Note 2 The requirements for reviewable decision notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

222 Applications for review

The following people may apply to the ACAT for a review of a reviewable decision:

(a) a person mentioned in schedule 1, column 4 in relation to the decision;

(b) any other person whose interests are affected by the decision.

Note If a form is approved under the *ACT Civil and Administrative Tribunal Act 2008* for the application, the form must be used.

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Part 15A Information sharing

222A Information sharing entities may give information to director-general etc

(1) An information sharing entity may give protected information to the director-general or an authorised person if the entity is satisfied on reasonable grounds that the information is necessary for the exercise of the director-general's or authorised person's functions under this Act.

Note 1 An authorised person may require a person to give the authorised person information (see s 179).

Note 2 The director-general may disclose to another entity information disclosed to, or obtained by, the director-general in the exercise of a function under this Act (see s 223).

(2) However, the information sharing entity must not disclose sensitive information or personal health information under this section.

(3) In this section:

biosecurity-related Act means any of the following Acts:

(a) the *Animal Welfare Act 1992*;

(b) the *Domestic Animals Act 2000*;

(c) the *Environment Protection Act 1997*;

(d) the *Fisheries Act 2000*;

(e) the *Nature Conservation Act 2014*;

(f) the *Stock Act 2005*;

(g) the *Urban Forest Act 2023*.

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information sharing entity means any of the following:

(a) an authorised officer under either of the following Acts:

(i) the *Animal Welfare Act 1992*;

(ii) the *Environment Protection Act 1997*;

(b) an authorised person under any of the following Acts:

(i) the *Domestic Animals Act 2000*;

(ii) the *Fisheries Act 2000*;

(iii) the *Stock Act 2005*;

(iv) the *Urban Forest Act 2023*;

(c) a conservation officer under the *Nature Conservation Act 2014*;

(d) an inspector under the *Animal Welfare Act 1992*;

(e) a director-general responsible for a biosecurity-related Act;

(f) a veterinary practitioner exercising a function, or carrying out a procedure, under a biosecurity-related Act;

(g) any other entity prescribed by regulation.

Examples—par (f)

- *Animal Welfare Act 1992*, s 84A, s 86 and s 86D
- *Domestic Animals Act 2000*, s 115

personal health information—see the *Health Records (Privacy and Access) Act 1997*, dictionary.

protected information means information about a person that is given to, or obtained by, an information sharing entity in the exercise of the entity's functions under a biosecurity-related Act.

sensitive information—see the *Information Privacy Act 2014*, section 14.

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223 Disclosure of information—director-general

The director-general may disclose to another entity any information that has been disclosed to, or obtained by, the director-general in the exercise of a function under this Act if satisfied that—

(a) the information is necessary for the entity to exercise a function relating to managing a biosecurity risk; and

(b) the disclosure of the information to the entity is appropriate.

224 Disclosure of information—certifier and auditor authorities

A certifier authority or auditor authority may disclose to the director-general any information that has been disclosed to, or obtained by, the authority in the exercise of a function under this Act.

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Part 16 Miscellaneous

225 Protection of officials from liability

(1) An official is not civilly liable for anything done or omitted to be done honestly and without recklessness—

(a) in the exercise of a function under this Act; or

(b) in the reasonable belief that the act or omission was in the exercise of a function under this Act.

(2) Any civil liability that would, apart from subsection (1), attach to an official attaches instead to the Territory.

(3) In this section:

official means—

(a) the director-general; or

(b) an authorised person; or

(c) a person exercising a function under this Act.

226 Protection of others from liability

(1) Civil or criminal liability is not incurred only because of any of the following done honestly and without recklessness:

(a) giving the director-general information about a biosecurity event, biosecurity risk or biosecurity impact;

(b) giving the director-general other information about biosecurity matter or a carrier, or any dealing with biosecurity matter or a carrier.

(2) Also, giving any information about biosecurity matter or a carrier honestly and without recklessness to the director-general is not—

(a) a breach of confidence; or

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(b) a breach of professional etiquette or ethics; or

(c) a breach of a rule of professional conduct.

227 Criminal liability of executive officers

(1) An executive officer of a corporation is taken to commit an offence if—

(a) the corporation commits an offence against this Act (a ***relevant offence***); and

(b) the officer was reckless about whether the relevant offence would be committed; and

(c) the officer was in a position to influence the conduct of the corporation in relation to the commission of the relevant offence; and

(d) the officer failed to take reasonable steps to prevent the commission of the relevant offence.

Maximum penalty: The maximum penalty that may be imposed for the commission of the relevant offence by an individual.

(2) Subsection (1) does not apply if the corporation has a defence to a prosecution for the relevant offence.

Note The defendant has an evidential burden in relation to the matters mentioned in s (2) (see Criminal Code, s 58).

(3) In deciding whether the executive officer took (or failed to take) reasonable steps to prevent the commission of the relevant offence, a court must consider the following:

(a) any action the officer took directed towards ensuring the following (to the extent that the action is relevant to the act or omission):

(i) that the corporation arranges regular professional assessments of the corporation's compliance with the provision to which the relevant offence relates;

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(ii) that the corporation implements any appropriate recommendation arising from such an assessment;

(iii) that the corporation's employees, agents and contractors have a reasonable knowledge and understanding of the requirement to comply with the provision to which the relevant offence relates;

(b) any action the officer took when the officer became aware that the relevant offence was, or might be, about to be committed.

(4) Subsection (3) does not limit the matters the court may consider.

(5) This section applies whether or not the corporation is prosecuted for, or convicted of, the relevant offence.

(6) In this section:

executive officer, of a corporation—

(a) means a person, however described, who is concerned with, or takes part in, the corporation's management; and

(b) includes a director of the corporation.

228 Meaning of *influential person* for a corporation

(1) In this Act:

influential person, for a corporation, means—

(a) an executive officer of the corporation; or

(b) a person who may exercise a relevant power in relation to the corporation; or

(c) a related corporation; or

(d) an executive officer of a related corporation.

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(2) In this section:

executive officer, of a corporation—see section 227 (6).

related corporation means a related body corporate under the Corporations Act.

relevant power, for a corporation, means a power to—

(a) take part in a directorial, managerial or executive decision for the corporation; or

(b) elect or appoint a person as an executive officer in the corporation; or

(c) significantly influence the conduct of the corporation.

229 Appointment of analysts

(1) The director-general may appoint a person as an analyst for this Act.

(2) However, the director-general must not appoint a person as an analyst unless satisfied the person has the qualifications and experience necessary to exercise the functions of an analyst.

Note For laws about appointments, see the Legislation Act, pt 19.3.

230 Cruelty to animals not authorised

Nothing in this Act authorises a contravention of the *Animal Welfare Act 1992*.

231 Limit on certain powers in relation to humans and residential premises

(1) For the following provisions, ***carrier*** does not include a human:

(a) section 42 (2) (k) (Emergency declarations—scope of emergency measures);

(b) section 55 (2) (k) (Control declarations—scope of emergency measures);

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(c) section 148 (k) (Biosecurity directions—scope of directions);

(d) section 176 (1) (k) (General powers on entry to premises);

(e) section 234 (2) (b) and (d) (Regulation-making power).

(2) None of the following provisions authorise the installation or use of a device in a part of premises that is being used only for residential purposes without the consent of the occupier of the premises:

(a) section 42 (2) (l);

(b) section 55 (2) (l);

(c) section 148 (l);

(d) section 176 (1) (l).

232 Minister may exempt people, biosecurity matter, etc

(1) The Minister may declare that this Act, or a provision of this Act, does not apply to a stated person, biosecurity matter, carrier, premises or other thing.

(2) A declaration is a disallowable instrument.

232A Applying, adopting or incorporating documents in regulations and instruments

(1) A regulation or instrument may apply, adopt or incorporate (with or without change or modification)—

(a) a law, an Australian Standard or an Australian/New Zealand Standard as in force from time to time; or

(b) another instrument as in force from time to time.

(2) The Legislation Act, section 47 (5) and (6) do not apply to a document applied, adopted or incorporated under subsection (1).

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(3) The director-general must ensure that an instrument applied, adopted or incorporated under subsection (1) (b) is—

(a) available for inspection by anyone without charge during ordinary business hours at an ACT government office; or

(b) accessible on an ACT government website, or by a link on an ACT government website.

(4) An instrument applied, adopted or incorporated under subsection (1) (b) is not enforceable by or against the Territory or anyone else unless it is made accessible in accordance with subsection (3).

233 Determination of fees

(1) The Minister may determine fees for this Act.

(2) A determination is a disallowable instrument.

234 Regulation-making power

(1) The Executive may make regulations for this Act.

(2) A regulation may make provision in relation to the following:

(a) any matter relating to the management of a biosecurity risk or biosecurity impact;

(b) the testing, analysis, vaccination, inoculation and other treatment of any biosecurity matter or carrier, including—

(i) the authorisation of a person to carry out the testing, analysis, vaccination, inoculation or other treatment; and

(ii) the use, manufacture, testing, distribution, storage, display or supply of any substance or equipment used for the testing, analysis, vaccination, inoculation or other treatment;

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(c) the classification and identification of any premises, biosecurity matter, carrier or other thing;

(d) the marking, branding, tagging, or attaching of a device or other identifier to any biosecurity matter or carrier whether on a voluntary or mandatory basis;

(e) the establishment and administration of a register of people, premises, biosecurity matter, carriers, dealings or any other matter or other thing for this Act;

(f) animal food including—

(i) the amount of a stated ingredient or other thing that may be added to, or contained in, animal food; and

(ii) the use, manufacture, testing, distribution, storage, display or supply of animal food;

(g) fertilisers including—

(i) the amount of a stated ingredient or other thing that may be added to, or contained in, a fertiliser; and

(ii) the use, manufacture, testing, distribution, storage, display or supply of fertilisers.

(3) A regulation may apply, adopt or incorporate an instrument as in force from time to time.

Note The text of an applied, adopted or incorporated instrument, whether applied as in force from time to time or as at a particular time, is taken to be a notifiable instrument if the operation of the Legislation Act, s 47 (5) or (6) is not disapplied (see s 47 (7)).

(4) A regulation may create offences and fix maximum penalties of not more than 50 penalty units for the offences.

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Part 16A Transitional

234A Meaning of *commencement day*—pt 16A

In this part:

commencement day means the day section 3 commences.

234B Beekeepers registered under repealed Act

(1) This section applies to a beekeeper registered under the repealed Act, part 5A as in force immediately before the commencement day.

(2) The registration continues in force under the repealed Act, and that Act, part 5A continues to apply in relation to the registration.

(3) The beekeeper's registration ends on the earlier of the following:

(a) 3 years after the day the registration was approved;

(b) the day the beekeeper's biosecurity registration in relation to beekeeping is approved.

(4) In this section:

repealed Act means the *Animal Diseases Act 2005*.

234C Authorised people and inspectors under repealed Acts

(1) This section applies to a person—

(a) appointed as an authorised person or inspector under a repealed appointment provision; and

(b) who was an authorised person or inspector immediately before the commencement day.

(2) The person is taken to be appointed as an authorised person under this Act, section 168 and the appointment continues in force until the end of the term of the appointment under the repealed appointment provision unless ended earlier.

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(3) The following are taken to be statutory instruments made under this Act, section 168:

- *Animal Diseases (Authorised People) Appointment 2023 (No 1)* (NI2023-593)
- *Pest Plants and Animals (Authorised People) Appointment 2023 (No 1)* (NI2023-595)
- *Plant Diseases (Inspectors) Appointment 2023 (No 1)* (NI2023-596).

(4) In this section:

repealed appointment provision means any of the following provisions:

(a) the *Animal Diseases Act 2005*, section 64;

(b) the *Pest Plants and Animals Act 2005*, section 30;

(c) the *Plant Diseases Act 2002*, section 19.

234D Transitional regulations

(1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of this Act.

(2) A regulation may modify this part (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.

(3) A regulation under subsection (2) has effect despite anything elsewhere in this Act or another territory law.

Note A transitional provision under s (1) continues to have effect after its repeal, however, a modification under s (2) has no ongoing effect after its repeal (see Legislation Act, s 88).

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234E Expiry—pt 16A

This part expires 3 years after the commencement day.

Note A transitional provision is repealed on its expiry but continues to have effect after its repeal (see Legislation Act, s 88).

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Part 16B Transitional—Environment Legislation Amendment Act 2025

234F Meaning of *commencement day*—pt 16B

In this part:

commencement day means the day the *Environment Legislation Amendment Act 2025*, section 4 commences.

234G Applied, adopted or incorporated instruments

(1) This section applies to a law, an Australian Standard or another instrument that, before the commencement day, was applied, adopted or incorporated (an ***applied instrument***) by—

(a) the *Biosecurity (National Livestock Identification System) Regulation 2025*; or

(b) the *Biosecurity Regulation 2025*; or

(c) a statutory instrument made under the *Biosecurity (National Livestock Identification System) Regulation 2025*; or

(d) a statutory instrument made under the *Biosecurity Regulation 2025*.

(2) The applied instrument is taken to have been applied, adopted or incorporated under section 232A.

234H Expiry—pt 16B

This part expires 1 year after the commencement day.

Note A transitional provision is repealed on its expiry but continues to have effect after its repeal (see Legislation Act, s 88).

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Schedule 1 Reviewable decisions

(see pt 15)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	67	refuse permit	applicant
2	67	refuse renewal of permit	permit-holder
3	70	amend permit	permit-holder
4	71	impose condition on permit	permit-holder
5	75	suspend permit	permit-holder
6	78	cancel permit	permit-holder
7	95	refuse registration	applicant
8	95	refuse renewal of registration	registered person
9	98	amend registration	registered person
10	99	impose condition on registration	registered person
11	102	suspend registration	registered person
12	105	cancel registration	registered person
13	123	give non-compliance notice	interstate entity with recognised approval
14	131	refuse approval	applicant
15	131	refuse to renew approval	approval-holder
16	135	amend approval	approval-holder
17	136	impose condition on approval	approval-holder
18	140	suspend approval	approval-holder
19	143	cancel approval	approval-holder
20	147	give a biosecurity direction, other than a biosecurity direction given in an emergency	person directed

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Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- director-general (see s 163)
- individual
- person (see s 160)
- police officer
- public notice
- the Territory
- veterinary practitioner.

analyst means a person appointed as an analyst under section 229.

animal means any of the following, whether alive or dead:

(a) a member of the animal kingdom, other than a human, including an amphibian, bird, crustacean, fish, insect, mammal, mollusc, reptile and any other vertebrate or invertebrate member of the animal kingdom;

(b) an embryo, egg, sperm or any other reproductive material of a member of the animal kingdom other than a human.

animal product includes—

(a) the hide, skin, hair, wool, feather, shell, horn, scale, fin, hoof, viscera, offal or any other part of an animal; and

(b) meat, fat, eggs, honey, milk, whey, cream, butter, cheese or any other primary produce derived from an animal; and

(c) the urine, faeces, bone or blood of an animal, or any substance derived from the urine, faeces, bone or blood of an animal; and

(d) any secretion or excretion of an animal; and

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(e) any product or biological preparation prepared, or derived, from any tissue, secretion, excretion or other part of an animal; and

(f) any other material of animal origin prescribed by regulation.

approval decision notice—see section 131 (3).

approval-holder—see section 120.

assess includes investigate.

auditor authority—see section 120.

audit report—see section 117 (1).

authorisation-holder—see section 114.

authorised person means an authorised person mentioned in section 168.

biosecurity audit—see section 115 (1).

biosecurity auditor—see section 120.

biosecurity certificate—see section 110 (1).

biosecurity certifier—see section 120.

biosecurity direction—see section 146 (1).

biosecurity event—see section 25.

biosecurity impact—see section 12 (1).

biosecurity matter—see section 8 (1).

biosecurity permit—see section 62.

biosecurity registration—see section 89.

biosecurity risk—see section 13.

biosecurity undertaking—see section 158 (1).

carrier—see section 9.

certifier authority—see section 120.

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community includes the community of the ACT, of areas surrounding the ACT, and of Australia as a whole.

connected, for part 12 (Enforcement—authorised people)—see section 167.

contaminant means a non-living thing that—

(a) occurs in or on other biosecurity matter or a carrier; or

(b) may be ingested or absorbed by another biosecurity matter or a carrier.

control declaration—see section 51 (1).

control measures, for a control declaration, for part 4 (Biosecurity control declarations)—see section 51 (2) (b).

control zone, for a control declaration—see section 51 (2) (c).

corresponding biosecurity law—

(a) means a law of the Commonwealth, a State or another Territory that corresponds, or substantially corresponds, to this Act; and

(b) includes a law prescribed by regulation.

deal, with biosecurity matter or a carrier—see section 10.

declared pest—see section 11 (2).

disease includes—

(a) an infection or infestation of an organism resulting in, or having the potential to result in, an abnormal, pathological or unhealthy condition caused by a known or unknown disease agent or pest; or

(b) a syndrome, or a clinically identifiable set of signs or symptoms in an organism, for which the cause is known or unknown; or

(c) anything else prescribed by regulation.

disease agent includes a prion, virus, microorganism, infectious agent and parasite.

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economy includes the economy of the ACT, of areas surrounding the ACT, and of Australia as a whole.

emergency biosecurity matter, for part 14 (Compensation)—see section 213.

emergency declaration—see section 38 (1).

emergency measures, for an emergency declaration—see section 38 (2) (b).

emergency zone, for an emergency declaration—see section 38 (2) (c).

environment includes the environment of the ACT, of areas surrounding the ACT, and of Australia as a whole.

external treatment measure, for a person, means a treatment that—

(a) is limited to the external parts of the person's body; and

(b) does not require—

(i) anything to penetrate the person's skin; or

(ii) the person to ingest anything.

general biosecurity duty—see section 22.

group exemption, for part 5 (Biosecurity permits and group exemptions)—see section 83 (1).

heritage place or object means a place or object registered, or nominated for provisional registration, under the *Heritage Act 2004*.

influential person, for a corporation—see section 228 (1).

infrastructure, in a reserve—see the *Nature Conservation Act 2014*, section 222 (7).

interfere with an item, includes damage or destroy the item.

interstate biosecurity certificate, for part 7 (Biosecurity certificates)—see section 111 (1).

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manage, a biosecurity risk or biosecurity impact, includes assess, prevent, eliminate, minimise and control the risk or impact.

move includes transport and distribute.

native animal—see the *Nature Conservation Act 2014*, section 12.

native plant—see the *Nature Conservation Act 2014*, section 14.

notifiable biosecurity matter, for division 2.4 (Notifying presence of notifiable biosecurity matter)—see section 29 (1).

occupier, of premises, for part 12 (Enforcement—authorised people)—see section 167.

offence, for part 12 (Enforcement—authorised people)—see section 167.

permit decision notice, for division 5.1 (Biosecurity permits)—see section 67 (4).

permit-holder—see section 62.

pest—see section 11 (1).

plant includes any member of the Plantae, Fungi or Protista kingdoms, whether whole or in part and whether alive or dead.

plant product includes dried plant material or timber.

possession, of a thing, includes having care, custody or control of the thing.

premises includes—

(a) any land, whether built on or not; and

(b) any building, structure or vehicle; and

(c) any public place or private place.

prohibited biosecurity matter—see section 33 (1).

prohibited dealing—see section 35 (1).

property-specific emergency declaration—see section 38 (4).

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reasonable steps, to manage a biosecurity risk—see section 21.

registered person means a person registered under part 6 (Biosecurity registration) to engage in a regulated dealing.

registration decision notice, for part 6 (Biosecurity registration)—see section 95 (4).

regulated dealing—see section 88.

reserve—see the *Nature Conservation Act 2014*, section 169 (1).

residential premises means any part of premises that is used only for residential purposes.

reviewable decision, for part 15 (Notification and review of decisions)—see section 220.

specific biosecurity requirement—see section 23 (1).

supply includes sell.

treatment measure—

(a) means a treatment, or process, used to manage a biosecurity risk or biosecurity impact; and

(b) includes—

(i) a process or measure to treat, clean, fumigate, irradiate, disinfect, medicate or vaccinate; and

(ii) destruction of any biosecurity matter or other thing.

vehicle means a conveyance of any kind, however propelled, and whether or not capable of being moved or operated and includes—

(a) a caravan, trailer, truck, train and any other land vehicle; and

(b) a vessel; and

(c) an aeroplane, helicopter, hot air balloon, drone and any other aircraft.

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vessel includes—

(a) a ship, boat, hovercraft, ferry, raft and any other water craft; and

(b) a pontoon, floating pier and any other floating structure.

warrant, for part 12 (Enforcement—authorised people)—see section 167.

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Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act
AF = Approved form
am = amended
amdt = amendment
AR = Assembly resolution
ch = chapter
CN = Commencement notice
def = definition
DI = Disallowable instrument
dict = dictionary
disallowed = disallowed by the Legislative Assembly
div = division
exp = expires/expired
Gaz = gazette
hdg = heading
IA = Interpretation Act 1967
ins = inserted/added
LA = Legislation Act 2001
LR = legislation register
LRA = Legislation (Republication) Act 1996
mod = modified/modification
NI = Notifiable instrument
o = order
om = omitted/repealed
ord = ordinance
orig = original
par = paragraph/subparagraph
pres = present
prev = previous
(prev...) = previously
pt = part
r = rule/subrule
reloc = relocated
renum = renumbered
R[X] = Republication No
RI = reissue
s = section/subsection
sch = schedule
sdiv = subdivision
SL = Subordinate law
sub = substituted
underlining = whole or part not commenced or to be expired

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3 Legislation history

Biosecurity Act 2023 A2023-50
notified LR 15 November 2023
s 1, s 2 commenced 15 November 2023 (LA s 75 (1))
remainder commenced 15 May 2025 (s 2 (2))

as amended by

Biosecurity Legislation Amendment Act 2024 A2024-11 sch 1 pt 1.1, sch 2 pt 2.2, sch 3 pt 3.3
notified LR 19 April 2024
s 1, s 2 commenced 19 April 2024 (LA s 75 (1))
sch 1 pt 1.1, sch 2 pt 2.2, sch 3 pt 3.3 commenced 15 May 2025 (s 2 and see Biosecurity Act 2023 A2023-50, s 2 (2))

Statute Law Amendment Act 2025 A2025-29 sch 3 pt 3.9
notified LR 6 November 2025
s 1, s 2 commenced 6 November 2025 (LA s 75 (1))
sch 3 pt 3.9 commenced 16 November 2025 (s 2 (1))

Environment Legislation Amendment Act 2025 A2025-28 pt 2
notified LR 12 November 2025
s 1, s 2 commenced 12 November 2025 (LA s 75 (1))
pt 2 commenced 26 November 2025 (s 2)

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4 Amendment history

Commencement
s 2 om LA s 89 (4)

Duty to notify biosecurity event—self-incrimination
s 28 am A2024-11 amdt 3.7

Offences—fail to comply with duty to notify presence of notifiable biosecurity matter
s 31 am A2024-11 amdt 1.1

Duty to notify presence of notifiable biosecurity matter—self-incrimination
s 32 am A2024-11 amdt 3.8

Time for beginning prosecution for certain offences
s 204A ins A2024-11 amdt 1.2

Information sharing
pt 15A hdg ins A2024-11 amdt 1.3

Information sharing entities may give information to director-general etc
s 222A ins A2024-11 amdt 1.3

Disclosure of information—director-general
s 223 reloc to pt 15A A2024-11 amdt 1.4

Disclosure of information—certifier and auditor authorities
s 224 reloc to pt 15A A2024-11 amdt 1.4

Criminal liability of executive officers
s 227 am A2025-29 amdt 3.28

Applying, adopting or incorporating documents in regulations and instruments
s 232A ins A2025-28 s 4

Transitional
pt 16A ins A2024-11 amdt 2.4
exp 15 May 2028 (s 234E)

Meaning of *commencement day*—pt 16A
s 234A ins A2024-11 amdt 2.4
exp 15 May 2028 (s 234E)

Beekeepers registered under repealed Act
s 234B ins A2024-11 amdt 2.4
exp 15 May 2028 (s 234E)

Authorised people and inspectors under repealed Acts
s 234C ins A2024-11 amdt 2.4
exp 15 May 2028 (s 234E)

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Transitional regulations
s 234D ins A2024-11 amdt 2.4
exp 15 May 2028 (s 234E)

Expiry—pt 16A
s 234E ins A2024-11 amdt 2.4
am A2025-29 amdt 3.29
exp 15 May 2028 (s 234E)

Transitional—Environment Legislation Amendment Act 2025
pt 16B hdg ins A2025-28 s 5
exp 26 November 2026 (s 234H)

Meaning of *commencement day*—pt 16B
s 234F ins A2025-28 s 5
exp 26 November 2026 (s 234H)

Applied, adopted or incorporated instruments
s 234G ins A2025-28 s 5
exp 26 November 2026 (s 234H)

Expiry—pt 16B
s 234H ins A2025-28 s 5
exp 26 November 2026 (s 234H)

Repeals
pt 17 om LA s 89 (3)

Legislation repealed
s 235 am A2024-11 amdt 2.5
om LA s 89 (3)

Reviewable decisions
sch 1 am A2025-28 s 6

Dictionary
dict am A2024-11 amdt 1.5

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5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 15 May 2025	15 May 2025– 15 Nov 2025	A2024-11	new Act and amendments by A2024-11
R2 16 Nov 2025	16 Nov 2025– 25 Nov 2025	A2025-28	amendments by A2025-29

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