

2023

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for the Environment)

Biosecurity Bill 2023

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2023

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for the Environment)

Biosecurity Bill 2023

A Bill for

An Act to manage biosecurity risk, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **Part 1 Preliminary**

2 **Division 1.1 Introduction**

3 **1 Name of Act**

4 This Act is the *Biosecurity Act 2023*.

5 **2 Commencement**

6 (1) This Act commences on a day fixed by the Minister by written notice.

7 *Note 1* The naming and commencement provisions automatically commence on
8 the notification day (see [Legislation Act](#), s 75 (1)).

9 *Note 2* A single day or time may be fixed, or different days or times may be
10 fixed, for the commencement of different provisions (see
11 [Legislation Act](#), s 77 (1)).

12 (2) If this Act has not commenced within 18 months beginning on its
13 notification day, it automatically commences on the first day after that
14 period.

15 (3) The [Legislation Act](#), section 79 (Automatic commencement of
16 postponed law) does not apply to this Act.

17 **3 Dictionary**

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

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

22 For example, the signpost definition ‘*native animal*—see the [Nature](#)
23 [Conservation Act 2014](#), section 12.’ means that the term ‘native animal’
24 is defined in that section and the definition applies to this Act.

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

1 **4** **Notes**

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

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

4 **5** **Offences against Act—application of Criminal Code etc**

5 Other legislation applies in relation to offences against this Act.

6 *Note 1* *Criminal Code*

7 The [Criminal Code](#), ch 2 applies to all offences against this Act (see
8 Code, pt 2.1).

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

13 *Note 2* *Penalty units*

14 The [Legislation Act](#), s 133 deals with the meaning of offence penalties
15 that are expressed in penalty units.

16 **6** **Objects of Act**

17 (1) The main objects of this Act are—

18 (a) to manage biosecurity risks arising from—

19 (i) biosecurity matter; and

20 (ii) dealings with biosecurity matter or carriers; and

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

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

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

- 1 (d) to provide a framework for risk-based decision-making in
2 relation to biosecurity; and
- 3 (e) to give effect to intergovernmental biosecurity agreements to
4 which the Territory is a party; and
- 5 (f) to facilitate trade by ensuring that biosecurity requirements in
6 other jurisdictions are met.

7 **7 Application of Act—emergency services and police**

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

- 10 (a) a relevant person under the *Emergencies Act 2004*, for the
11 purpose of protecting life, property or the environment; or
- 12 (b) a police officer, for the purpose of protecting life or property.

13 (2) In this section:

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

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

17 *relevant person* means—

- 18 (a) an emergency controller; or
- 19 (b) a member of an emergency service; or
- 20 (c) any other person under the control of—
- 21 (i) an emergency controller; or
- 22 (ii) the chief officer (ambulance service); or
- 23 (iii) the chief officer (fire and rescue service); or

- 1 (iv) the chief officer (rural fire service); or
2 (v) the chief officer (SES); or
3 (d) a police officer.

4 **Division 1.2 Important concepts**

5 **8 Meaning of *biosecurity matter***

6 (1) In this Act:

7 *biosecurity matter* means any of the following:

- 8 (a) an animal, plant or other living thing, including an animal
9 product, plant product or product of another living thing;
10 (b) a disease agent that can cause disease in—
11 (i) an animal, plant or other living thing; or
12 (ii) a human by way of transmission from a non-human host;
13 (c) a contaminant;
14 (d) anything else prescribed by regulation.
15 (2) A reference to particular biosecurity matter—
16 (a) by a common name does not limit any reference to the
17 biosecurity matter by its scientific name; and
18 (b) if the biosecurity matter has a life cycle—includes a reference
19 to all stages of the life cycle of the biosecurity matter.
20 (3) In this section:
21 *living thing*—
22 (a) includes part of a living thing; but
23 (b) does not include a human.

1 **9** **Meaning of *carrier***

2 In this Act:

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

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

6 **10** **Meaning of *deal* with biosecurity matter or carrier**

7 In this Act:

8 *deal*, with biosecurity matter or a carrier—

9 (a) means the following:

- 10 (i) keep or manage the biosecurity matter or carrier;
- 11 (ii) have possession of the biosecurity matter or carrier;
- 12 (iii) produce, manufacture or supply the biosecurity matter or
13 carrier;
- 14 (iv) import the biosecurity matter or carrier;
- 15 (v) acquire the biosecurity matter or carrier;
- 16 (vi) buy or sell the biosecurity matter or carrier;
- 17 (vii) dispose of or destroy the biosecurity matter or carrier;
- 18 (viii) mark, brand, tag or attach a device or other identifier to the
19 biosecurity matter or carrier to identify or trace the
20 biosecurity matter or carrier;
- 21 (ix) move the biosecurity matter or carrier;
- 22 (x) release the biosecurity matter or carrier from captivity into
23 the environment;
- 24 (xi) use or treat the biosecurity matter or carrier for any
25 purpose;

- 1 (xii) diagnose the biosecurity matter or carrier;
- 2 (xiii) breed, propagate, grow, raise, feed, clone or culture the
3 biosecurity matter or carrier;
- 4 (xiv) experiment with the biosecurity matter or carrier;
- 5 (xv) display the biosecurity matter or carrier;
- 6 (xvi) enter into an agreement or arrangement to deal, or for
7 another person to deal, with the biosecurity matter or
8 carrier;
- 9 (xvii) cause or permit a dealing with the biosecurity matter or
10 carrier;
- 11 (xviii) anything else prescribed by regulation; but
- 12 (b) does not include a circumstance prescribed by regulation.

13 **11 Meaning of *pest***

14 (1) In this Act:

15 *pest*—

- 16 (a) means an animal or plant that has, or is likely to have, an adverse
17 effect on the environment, the economy or the community,
18 including by—
- 19 (i) competing with other organisms for resources including
20 food, water, nutrients, habitat or sunlight; or
- 21 (ii) destroying or damaging the habitat of other organisms; or
- 22 (iii) preying or feeding on other organisms; or
- 23 (iv) transmitting disease to other organisms; or
- 24 (v) causing harm to other organisms because of toxicity or
25 disturbance; or

- 1 (vi) reducing the productivity of any primary industry or the
2 value of any primary produce; or
- 3 (vii) damaging infrastructure; or
- 4 (viii) reducing the amenity or aesthetic value of premises; or
- 5 (ix) harming or reducing biodiversity; or
- 6 (x) doing anything else, or having any other effect, prescribed
7 by regulation; and
- 8 (b) includes a declared pest.
- 9 (2) The Minister may declare an animal or a plant to be a pest (a *declared*
10 *pest*).
- 11 (3) A declaration is a notifiable instrument.

12 **12 Meaning of *biosecurity impact***

- 13 (1) In this Act:
- 14 *biosecurity impact* means an adverse effect on the environment, the
15 economy or the community that—
- 16 (a) arises from, or has the potential to arise from, biosecurity matter
17 or a carrier, or a dealing with biosecurity matter or a carrier; and
- 18 (b) is related to at least 1 of the following:
- 19 (i) the introduction, presence, spread or increase of a pest in
20 any part of the ACT;
- 21 (ii) the introduction, presence, spread or increase of a disease
22 or disease agent in any part of the ACT;
- 23 (iii) an animal, plant, animal product or plant product becoming
24 contaminated;
- 25 (iv) any other thing or circumstance prescribed by regulation.

- 1 (2) In this section:
- 2 *contaminated*, for an animal, plant, animal product or plant product,
3 means the animal, plant or product contains a contaminant that makes
4 it, or is likely to make it—
- 5 (a) unfit or unsuitable for use in a commercial or other activity; or
6 (b) a risk to human health or safety, or to the environment; or
7 (c) unfit for export or other trade.

8 **13 Meaning of *biosecurity risk***

9 In this Act:

10 *biosecurity risk* means the risk of a biosecurity impact happening.

11 **14 Reasonable suspicion—carriers**

- 12 (1) An animal, plant or other thing may be reasonably suspected of being
13 a carrier of biosecurity matter if there are reasonable grounds for
14 suspecting that—
- 15 (a) biosecurity matter is present in or on, or is attached to, the
16 animal, plant or other thing; or
- 17 (b) the animal, plant or other thing is or has been—
- 18 (i) in or with a flock, group or herd in which there is or was
19 an animal, plant or other thing that was a carrier of the
20 biosecurity matter; or
- 21 (ii) at a place where there is or was an animal, plant or other
22 thing that was a carrier of the biosecurity matter; or
- 23 (iii) in a vehicle or other thing on or in which there is or was an
24 animal, plant or other thing that was a carrier of the
25 biosecurity matter; or

- 1 (c) there is present, at the place where the animal, plant or other
2 thing is kept, a vehicle or other thing that has been at another
3 place when the biosecurity matter or a carrier of the biosecurity
4 matter was present at that other place.
- 5 (2) A place may be reasonably suspected of being a carrier of biosecurity
6 matter if there are reasonable grounds for suspecting that—
- 7 (a) biosecurity matter is present at the place; or
- 8 (b) there is present, at the place, a vehicle or other thing that has
9 been at another place when the biosecurity matter or a carrier of
10 the biosecurity matter was present.
- 11 (3) It is not necessary for an animal or plant to be exhibiting signs of
12 infection or contamination, or any other sign that it is a carrier, for a
13 person to form a reasonable suspicion that the animal or plant is a
14 carrier.
- 15 (4) This section does not prevent the director-general, an authorised
16 person or anyone else from using any other evidence or consideration
17 available to them to form a reasonable suspicion that an animal, plant,
18 place or other thing is a carrier of biosecurity matter.

19 **15 Reasonable suspicion—disease infection**

- 20 (1) An animal, plant or other thing may be reasonably suspected of being
21 infected with a disease if there are reasonable grounds for suspecting
22 that—
- 23 (a) a disease agent is present in or on the animal, plant or other
24 thing; or
- 25 (b) the animal, plant or other thing is or has been—
- 26 (i) in or with a flock, group or herd in which there is or was
27 an animal, plant or other thing infected with the disease; or
- 28 (ii) at a place where there is or was an animal, plant or other
29 thing infected with the disease; or

- 1 (iii) in a vehicle or other thing on or in which there is or was an
2 animal, plant or other thing infected with the disease.
- 3 (2) A place may be reasonably suspected of being infected with a disease
4 if there are reasonable grounds for suspecting that a disease agent is
5 present at the place.
- 6 (3) It is not necessary for an animal or plant to be exhibiting signs of a
7 disease for a person to form a reasonable suspicion that the animal or
8 plant is infected with a disease.
- 9 (4) This section does not prevent the director-general, an authorised
10 person or anyone else from using any other evidence or consideration
11 available to them to form a reasonable suspicion that an animal, plant,
12 place or other thing is infected with a disease.

13 **16 Reasonable suspicion—pest infestation**

- 14 (1) An animal or plant may be reasonably suspected of being infested
15 with a pest if there are reasonable grounds for suspecting that the pest
16 is present in or on, or is attached to, the animal or plant.
- 17 (2) A place or thing (other than an animal or plant) may be reasonably
18 suspected of being infested with a pest if there are reasonable grounds
19 for suspecting that—
- 20 (a) the pest is present at the place or on the thing; or
- 21 (b) there is present, at the place or on the thing, a vehicle or other
22 thing that has been at another place when the pest was present at
23 the other place.
- 24 (3) It is not necessary for an animal, plant, place or other thing to be
25 exhibiting signs of infestation with a pest for a person to form a
26 reasonable suspicion that the animal, plant, place or thing is infested
27 with a pest.

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

1 **Part 2** **Biosecurity duties and offences**

2 **Division 2.1** **Principles applying to biosecurity**
3 **duties**

4 **17** **Biosecurity duties not transferable**

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

6 **18** **Person can have more than 1 biosecurity duty**

7 A person can have more than 1 biosecurity duty.

8 **19** **More than 1 person can have a biosecurity duty**

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

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

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

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

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

1 **20 Duty to manage biosecurity risk**

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

- 4 (a) to take all reasonable steps to prevent or eliminate the risk; and
5 (b) if it is not reasonably practicable to prevent or eliminate the risk,
6 to take all reasonable steps to minimise the risk.

7 **21 Meaning of *reasonable steps***

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

- 11 (a) the nature of the risk; and
12 (b) the degree of biosecurity impact that arises, or may arise, from
13 the risk; and
14 (c) what the person knows about—
15 (i) the risk; and
16 (ii) the ways of managing the risk; and
17 (d) the availability and suitability of ways to manage the risk; and
18 (e) the cost of available ways of managing the risk, including
19 whether the cost is grossly disproportionate to the risk.

20 **Division 2.2 General biosecurity duty**

21 **22 General biosecurity duty**

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

1 **23 Specific biosecurity requirements**

2 (1) In this Act:

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

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

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

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

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

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

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

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

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

- 1 **24 Offences—fail to comply with general biosecurity duty**
- 2 (1) A person commits an offence if the person—
- 3 (a) has a general biosecurity duty under section 22; and
- 4 (b) intentionally fails to comply with the duty.
- 5 Maximum penalty: 2 500 penalty units, imprisonment for 2 years or
- 6 both.
- 7 (2) A person commits an offence if the person—
- 8 (a) has a general biosecurity duty under section 22; and
- 9 (b) negligently fails to comply with the duty.
- 10 Maximum penalty: 2 500 penalty units.
- 11 (3) A person commits an offence if—
- 12 (a) the person has a general biosecurity duty under section 22; and
- 13 (b) the person intentionally or negligently fails to comply with the
- 14 duty; and
- 15 (c) the failure causes a significant biosecurity impact; and
- 16 (d) the person is reckless about whether the failure would cause a
- 17 significant biosecurity impact.
- 18 Maximum penalty: 5 000 penalty units, imprisonment for 4 years or
- 19 both.

1 **Division 2.3** **Duty to notify biosecurity events**

2 **25** **Meaning of *biosecurity event***

3 In this Act:

4 ***biosecurity event***—

5 (a) means an event that—

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

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

9 (b) includes the following events:

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

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

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

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

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

21 (vi) anything else prescribed by regulation.

22 **26** **Duty to notify biosecurity event**

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

- 1 (2) However, the duty arises only if the person—
- 2 (a) is the owner, occupier or person in charge of, or has possession
- 3 of, premises, a carrier or other thing in relation to which the
- 4 biosecurity event has happened, is happening or is likely to
- 5 happen; or
- 6 (b) becomes aware of, or suspects, the biosecurity event as a result
- 7 of a consultation or other work carried out in relation to
- 8 premises, a carrier or other thing in the person’s professional
- 9 capacity; or
- 10 (c) is a person prescribed by regulation.

11 **27 Offences—fail to comply with duty to notify biosecurity**

12 **event**

- 13 (1) A person commits an offence if the person—
- 14 (a) has a duty to notify a biosecurity event under section 26; and
- 15 (b) fails to comply with the duty.
- 16 Maximum penalty: 50 penalty units.
- 17 (2) A person commits an offence if the person—
- 18 (a) has a duty to notify a biosecurity event under section 26; and
- 19 (b) intentionally or negligently fails to comply with the duty.
- 20 Maximum penalty: 2 500 penalty units, imprisonment for 2 years or
- 21 both.
- 22 (3) An offence against subsection (1) is a strict liability offence.
- 23 (4) It is a defence to a prosecution for an offence against subsection (1)
- 24 if the defendant proves that they took all reasonable precautions and
- 25 exercised all appropriate diligence to prevent the commission of the
- 26 offence.

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

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

6 **28 Duty to notify biosecurity event—self-incrimination**

- 7 (1) A person is not excused from complying with the duty to notify a
8 biosecurity event under section 26 on the ground that doing so may
9 tend to incriminate the person or expose the person to a penalty.
- 10 (2) However, any information, document or thing obtained, directly or
11 indirectly, because of the person complying with the duty is not
12 admissible in evidence against the person in a civil or criminal
13 proceeding, other than a proceeding for an offence against—
- 14 (a) section 27; or
- 15 (b) an offence arising out of the false or misleading nature of the
16 information, document or thing.

17 **Division 2.4 Duty to notify presence of notifiable**
18 **biosecurity matter**

19 **29 Notifiable biosecurity matter**

- 20 (1) The Minister may declare biosecurity matter to be notifiable
21 (*notifiable biosecurity matter*) if satisfied that the biosecurity matter
22 poses a biosecurity risk.
- 23 (2) A declaration is a notifiable instrument.

24 **30 Duty to notify presence of notifiable biosecurity matter**

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

- 1 (2) However, the duty arises only if the person—
- 2 (a) is the owner, occupier or person in charge of, or has possession
- 3 of, premises, a carrier or other thing where the notifiable
- 4 biosecurity matter is present or suspected of being present; or
- 5 (b) becomes aware of, or suspects, the presence of the notifiable
- 6 biosecurity matter as a result of a consultation or other work
- 7 carried out in relation to premises, a carrier or other thing in the
- 8 person's professional capacity; or
- 9 (c) is a person prescribed by regulation.

10 **31 Offences—fail to comply with duty to notify presence of**

11 **notifiable biosecurity matter**

- 12 (1) A person commits an offence if the person—
- 13 (a) has a duty to notify the presence of notifiable biosecurity matter
- 14 under section 30; and
- 15 (b) fails to comply with the duty.

16 Maximum penalty: 50 penalty units.

- 17 (2) A person commits an offence if the person—
- 18 (a) has a duty to notify the presence of notifiable biosecurity matter
- 19 under section 30; and
- 20 (b) intentionally or negligently fails to comply with the duty.

21 Maximum penalty: 2 500 penalty units, imprisonment for 2 years or

22 both.

- 23 (3) An offence against subsection (1) is a strict liability offence.
- 24 (4) It is a defence to a prosecution for an offence against subsection (1)
- 25 if the defendant proves that they took all reasonable precautions and
- 26 exercised all appropriate diligence to prevent the commission of the
- 27 offence.

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

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

6 **32 Duty to notify presence of notifiable biosecurity matter—**
7 **self-incrimination**

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

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

16 (a) section 31; or

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

19 **Division 2.5 Prohibited biosecurity matter**

20 **33 Prohibited biosecurity matter**

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

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

- 25 (3) A declaration is a notifiable instrument.

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

- 1 **34 Offences—deal with prohibited biosecurity matter**
- 2 (1) A person must not deal with prohibited biosecurity matter.
- 3 Maximum penalty: 50 penalty units.
- 4 (2) A person commits an offence if the person intentionally or
- 5 negligently deals with prohibited biosecurity matter.
- 6 Maximum penalty: 2 500 penalty units, imprisonment for 2 years or
- 7 both.
- 8 (3) An offence against subsection (1) is a strict liability offence.
- 9 (4) If, in a prosecution for an offence against this section, it is proved that
- 10 prohibited biosecurity matter was on land occupied by the defendant,
- 11 it is presumed, unless the contrary is proved, that the defendant had
- 12 possession of the prohibited biosecurity matter.
- 13 (5) It is a defence to a prosecution for an offence against subsection (1)
- 14 constituted by the defendant having prohibited biosecurity matter in
- 15 their possession if the defendant proves that they did not know, and
- 16 could not reasonably be expected to have known, that they had the
- 17 prohibited biosecurity matter in their possession.
- 18 (6) It is a defence to a prosecution for an offence against subsection (1)
- 19 if the defendant proves that—
- 20 (a) they took all reasonable precautions and exercised all
- 21 appropriate diligence to prevent the commission of the offence;
- 22 or
- 23 (b) they had a reasonable excuse for dealing with the prohibited
- 24 biosecurity matter.
- 25 *Note 1* The defendant has a legal burden in relation to the matters mentioned in
- 26 ss (4), (5) and (6) (see [Criminal Code](#), s 59).
- 27 *Note 2* A biosecurity permit may authorise a permit-holder to deal with
- 28 prohibited biosecurity matter (see s 62).

1 **Division 2.6** **Prohibited dealings with biosecurity**
2 **matter**

3 **35** **Prohibited dealings with biosecurity matter**

- 4 (1) The Minister may declare that a stated dealing with biosecurity matter
5 is prohibited (a *prohibited dealing*) if satisfied that the dealing with
6 the biosecurity matter poses a significant biosecurity risk to any part
7 of the ACT.
- 8 (2) A declaration may apply to a stated part of the ACT.
- 9 (3) A declaration is a notifiable instrument.

10 **36** **Offences—engage in prohibited dealing**

- 11 (1) A person must not engage in a prohibited dealing.
12 Maximum penalty: 50 penalty units.
- 13 (2) A person commits an offence if the person intentionally or
14 negligently engages in a prohibited dealing.
15 Maximum penalty: 2 500 penalty units.
- 16 (3) An offence against subsection (1) is a strict liability offence.
- 17 (4) It is a defence to a prosecution for an offence against subsection (1)
18 if the defendant proves that they had a reasonable excuse for engaging
19 in the prohibited dealing.

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

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

1 **Division 2.7 Alternative verdicts**

2 **37 Alternative verdicts for offences**

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

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

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

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

12 (3) In this section:

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

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

16 **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)

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)

1 **Part 3** **Biosecurity emergency**
2 **declarations**

3 **38** **Emergency declarations**

- 4 (1) If the Minister is satisfied, or reasonably suspects, that there is a
5 current or likely to happen biosecurity risk that may have a significant
6 biosecurity impact, the Minister may declare a biosecurity emergency
7 (an *emergency declaration*).
- 8 (2) An emergency declaration must state the following:
- 9 (a) the biosecurity risk that is the subject of the emergency,
10 including the biosecurity matter (if known) and the biosecurity
11 impact (if known);
- 12 (b) the measures the Minister considers reasonably necessary to
13 respond to the emergency (the *emergency measures*);
- 14 (c) the area or premises where the emergency measures apply
15 (the *emergency zone*);
- 16 (d) the people to whom the emergency measures apply;
- 17 (e) when the declaration expires.
- 18 (3) An emergency declaration may be made for 1 or more of the
19 following purposes:
- 20 (a) to prevent the spread of the biosecurity matter;
- 21 (b) to eradicate the biosecurity matter (if practicable);
- 22 (c) for any other purpose the Minister considers necessary.

- 1 (4) An emergency declaration is a notifiable instrument unless—
2 (a) the emergency declaration applies only to stated premises
3 (a *property-specific emergency declaration*); and
4 (b) the Minister considers that it is appropriate to not notify the
5 declaration.

6 **39 Emergency declarations—duration**

- 7 (1) An emergency declaration—
8 (a) comes into force immediately after it is made, or at any later
9 time stated in the declaration; and
10 (b) ends 6 months after it comes into force, or any earlier time stated
11 in the declaration.
12 (2) The Minister may extend, or further extend, an emergency declaration
13 for an additional period of not longer than 6 months.
14 (3) An extension of an emergency declaration is a notifiable instrument
15 unless the emergency declaration was not notified under
16 section 38 (4).

17 **40 Emergency declarations—notice**

- 18 (1) The Minister must give public notice of—
19 (a) an emergency declaration; and
20 (b) an extension of an emergency declaration.
21 (2) However, if the emergency declaration is a property-specific
22 emergency declaration, the Minister may instead give a copy of the
23 declaration, or extension, to the owner, occupier or person apparently
24 in charge of the premises.
25 (3) The Minister must take reasonable steps to ensure that people who
26 are likely to be directly affected by the declaration, or extension, are
27 made aware of the declaration or extension.

- 1 **41 Emergency declarations—deciding emergency measures**
- 2 In deciding the emergency measures to include in an emergency
3 declaration, the Minister must—
- 4 (a) ensure that an emergency measure is no more onerous than the
5 Minister considers necessary, taking into account the nature of
6 the biosecurity emergency; and
- 7 (b) consider—
- 8 (i) the purposes mentioned in section 38 (3); and
9 (ii) any other matter the Minister considers relevant.
- 10 **42 Emergency declarations—scope of emergency measures**
- 11 (1) Emergency measures may—
- 12 (a) prohibit, regulate or control the doing of anything related to the
13 biosecurity risk; or
- 14 (b) require or authorise the doing of anything related to the
15 biosecurity risk.
- 16 (2) In particular, emergency measures may prohibit, regulate, control,
17 require or authorise any of the following:
- 18 (a) activities that involve biosecurity matter, a carrier or a potential
19 carrier;
- 20 (b) the use of premises for an activity that involves biosecurity
21 matter, a carrier or a potential carrier;
- 22 (c) the movement of any biosecurity matter or other thing;
- 23 (d) the isolation, confinement or detention of any biosecurity matter
24 or other thing;
- 25 (e) the treatment measures to be carried out in relation to any
26 biosecurity matter, premises or other thing;

- 1 (f) the erection or repair of any fencing, gate or other method of
2 enclosure, or the taking of any other stated security or
3 containment measure in relation to any premises, biosecurity
4 matter or other thing;
- 5 (g) the erection of signs;
- 6 (h) the provision of samples of any biosecurity matter or other thing;
- 7 (i) the testing of any biosecurity matter or other thing;
- 8 (j) the obtaining of a biosecurity certificate in relation to any
9 biosecurity matter or other thing;
- 10 (k) the marking, branding, tagging or attaching of a device or other
11 identifier to any biosecurity matter or carrier to identify or trace
12 the biosecurity matter or carrier;
- 13 (l) the installation or use of a device at any premises to detect or
14 monitor the presence of any biosecurity matter or other thing;
- 15 (m) the installation or use of a device or bait at any premises to
16 capture, kill or otherwise control any biosecurity matter or other
17 thing;
- 18 (n) the destruction, disposal or eradication of any biosecurity matter
19 or other thing (including the manner of destruction, disposal or
20 eradication);
- 21 (o) any other matter prescribed by regulation.

22 **43 Emergency declarations—measures restricting**
23 **movement of people**

- 24 (1) In addition to section 42, emergency measures may also do any of the
25 following:
- 26 (a) prohibit, regulate or control entry into, or exit from, any stated
27 premises or stated area;

- 1 (b) prohibit, regulate or control the use of any road within, or going
2 into or out of, any stated premises or stated area (including by
3 closing roads);
- 4 (c) require a person entering or leaving stated premises or a stated
5 area to stop and, if required by an authorised person—
- 6 (i) allow themselves and anything in their possession to be
7 inspected; and
- 8 (ii) carry out or permit external treatment measures to be
9 carried out in relation to themselves and anything in their
10 possession;
- 11 (d) prohibit a person from entering or leaving stated premises or a
12 stated area unless the person has done either or both of the
13 following:
- 14 (i) carried out a stated external treatment measure in relation
15 to themselves;
- 16 (ii) carried out a stated treatment measure in relation to
17 anything in the person's possession.
- 18 (2) An emergency declaration must not prohibit, regulate, control or
19 require the movement of a person, except as expressly provided in
20 subsection (1).
- 21 (3) However, subsection (2) does not prevent an emergency measure
22 being imposed in relation to any biosecurity matter, premises, activity
23 or other thing, that has an impact on the movement of a person but
24 that is not imposed for the purpose of restricting the movement of the
25 person.

- 1 **44** **Emergency declarations—measures about treatment of**
2 **people**
- 3 An emergency declaration must not require—
- 4 (a) a treatment measure, other than an external treatment measure,
5 to be carried out in relation to a person; or
- 6 (b) a person to provide a sample of their blood, hair, saliva or any
7 other body part or body fluid.
- 8 **45** **Emergency declarations—measures about inspection of**
9 **people**
- 10 A requirement in an emergency declaration that a person must allow
11 themselves to be inspected by an authorised person only authorises
12 the authorised person to require the person to do 1 or more of the
13 following:
- 14 (a) to submit to a visual inspection (including of the exterior of the
15 person’s clothing, accessories and shoes);
- 16 (b) to shake, or otherwise move, the person’s hair.
- 17 **46** **Emergency declarations—measures about destruction of**
18 **things**
- 19 (1) An emergency declaration must not require or authorise the
20 destruction of any biosecurity matter or other thing unless the
21 Minister is satisfied that—
- 22 (a) the destruction is reasonably necessary to manage a significant
23 biosecurity impact; or
- 24 (b) the destruction is reasonably necessary to detect, diagnose or
25 determine the cause of a disease; or

- 1 (c) if the biosecurity matter to be destroyed is an animal—the
2 destruction is necessary to prevent or minimise an adverse effect
3 on animal welfare, including any distress or likely distress to an
4 animal.
- 5 (2) If an emergency declaration requires or authorises the destruction of
6 any biosecurity matter or other thing, the Minister must ensure that a
7 copy of the declaration is given to the owner or person in charge of
8 the biosecurity matter or other thing before it is destroyed, unless—
- 9 (a) there appears to be no-one immediately in control of it, and the
10 owner or person in charge cannot be found after reasonable
11 inquiry; and
- 12 (b) the Minister considers that, in the circumstances, the declaration
13 must be carried out without delay or prior notice to the owner or
14 person in charge.

15 **47 Emergency declarations—prevail over other instruments**

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

- 18 (a) a regulation;
- 19 (b) a control declaration;
- 20 (c) a biosecurity permit, other than a biosecurity permit that
21 expressly relates or applies to the emergency;
- 22 (d) biosecurity registration;
- 23 (e) a biosecurity direction, other than a biosecurity direction given
24 in relation to the emergency declaration;
- 25 (f) a biosecurity undertaking;
- 26 (g) any other authorisation, exemption or other right or instrument
27 made or issued under this Act.

- 1 **48** **Emergency declarations—authorising actions and**
2 **recovering costs**
- 3 (1) If a person (the *liable person*) fails to comply with an emergency
4 declaration, the director-general may authorise a person to—
- 5 (a) enter premises; and
- 6 (b) take any action in relation to the premises, or anything at the
7 premises, that the liable person is required by the declaration to
8 take or is otherwise necessary to remedy the failure to comply.
- 9 (2) The director-general may recover from the liable person the
10 reasonable costs of taking action under this section.
- 11 *Note* An amount owing under a law may be recovered as a debt in a court of
12 competent jurisdiction or the ACAT (see [Legislation Act](#), s 177).
- 13 (3) If the director-general authorises a person to enter residential
14 premises to take action under subsection (1), the director-general
15 must give written notice of the entry to an occupier of the premises.
- 16 (4) The notice must—
- 17 (a) state the day of entry; and
- 18 (b) be given to the occupier at least 1 day before the day of entry.
- 19 (5) However, notice is not required to be given if the person enters the
20 residential premises—
- 21 (a) with the consent of an occupier of the premises; or
- 22 (b) under the authority of a warrant.
- 23 (6) Any action taken under this section for failure to comply with an
24 emergency declaration, is in addition to the taking of a proceeding for
25 an offence of failing to comply with an emergency declaration under
26 section 49.

- 1 **49 Offences—fail to comply with emergency declaration**
- 2 (1) A person must comply with an emergency declaration.
- 3 Maximum penalty: 50 penalty units.
- 4 (2) A person commits an offence if the person intentionally or
- 5 negligently fails to comply with an emergency declaration.
- 6 Maximum penalty: 2 500 penalty units, imprisonment for 2 years or
- 7 both.
- 8 (3) An offence against subsection (1) is a strict liability offence.
- 9 (4) This section does not apply if, at the time the person committed the
- 10 offence, the person was not made aware of the emergency declaration.
- 11 *Note* The defendant has an evidential burden in relation to the matters
- 12 mentioned in s (4) (see [Criminal Code](#), s 58).
- 13 (5) For subsection (4) a person is *made aware* of an emergency
- 14 declaration if—
- 15 (a) public notice of the declaration was given under section 40 (1);
- 16 or
- 17 (b) the person was given a copy of the declaration; or
- 18 (c) an authorised person told the person orally, or in writing, about
- 19 the declaration.
- 20 **50 Emergency declarations—protection of emergency**
- 21 **actions**
- 22 (1) A court or tribunal must not grant an interim injunction, make any
- 23 other interim order or give any other interim relief having the effect
- 24 of preventing, restricting, staying or deferring any emergency
- 25 declaration or anything authorised or required to be done under an
- 26 emergency declaration during the period the declaration has effect.

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

- 1 **Part 4** **Biosecurity control declarations**
- 2 **51** **Control declarations**
- 3 (1) If the Minister is satisfied that it is necessary to manage a biosecurity
- 4 risk or biosecurity impact, the Minister may make a declaration
- 5 (a *control declaration*).
- 6 (2) A control declaration must state the following:
- 7 (a) the biosecurity risk or biosecurity impact that is the subject of
- 8 the declaration, including the biosecurity matter (if known);
- 9 (b) the measures the Minister considers reasonably necessary to
- 10 manage the biosecurity risk or biosecurity impact (the *control*
- 11 *measures*);
- 12 (c) the area or premises where the control measures apply
- 13 (the *control zone*);
- 14 (d) the people to whom the control measures apply;
- 15 (e) when the declaration expires.
- 16 (3) The main purpose of a control declaration is—
- 17 (a) to prevent the introduction into the ACT, or a part of the ACT,
- 18 of biosecurity matter that poses, or is likely to pose, a biosecurity
- 19 risk; or
- 20 (b) to eradicate from the ACT, or a part of the ACT, biosecurity
- 21 matter that poses, or is likely to pose, a biosecurity risk; or
- 22 (c) if prevention or eradication are not reasonably practicable—to
- 23 provide for the minimisation and management of a biosecurity
- 24 risk or biosecurity impact.
- 25 (4) A control declaration is a notifiable instrument.

1 **52 Control declarations—duration**

2 A control declaration—

- 3 (a) commences on the day after it is notified, or any later day stated
4 in the declaration; and
- 5 (b) ends 5 years after it commences, or any earlier day stated in the
6 declaration.

7 **53 Control declarations—notice**

- 8 (1) The Minister must give public notice of a control declaration.
- 9 (2) The Minister must take reasonable steps to ensure that people who
10 are likely to be directly affected by the declaration are made aware of
11 the declaration.

12 **54 Control declarations—deciding control measures**

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

- 15 (a) ensure that a control measure is no more onerous than the
16 Minister considers necessary, taking into account the nature of
17 the biosecurity risk or biosecurity impact to which the
18 declaration relates; and
- 19 (b) consider—
- 20 (i) the purposes mentioned in section 51 (3); and
21 (ii) any other matter the Minister considers relevant.

22 **55 Control declarations—scope of control measures**

- 23 (1) Control measures may—
- 24 (a) prohibit, regulate or control the doing of anything related to the
25 biosecurity risk or biosecurity impact; or

- 1 (b) require or authorise the doing of anything related to the
2 biosecurity risk or biosecurity impact.
- 3 (2) In particular, control measures may prohibit, regulate, control, require
4 or authorise any of the following:
- 5 (a) activities that involve biosecurity matter, a carrier or a potential
6 carrier;
- 7 (b) the use of premises for an activity that involves biosecurity
8 matter, a carrier or a potential carrier;
- 9 (c) the movement of any biosecurity matter or other thing;
- 10 (d) the isolation, confinement or detention of any biosecurity matter
11 or other thing;
- 12 (e) treatment measures to be carried out in relation to any
13 biosecurity matter, premises or other thing;
- 14 (f) the erection or repair of any fencing, gate or other method of
15 enclosure, or the taking of any other stated security or
16 containment measure in relation to any biosecurity matter,
17 premises or other thing;
- 18 (g) the erection of signs;
- 19 (h) the provision of samples of any biosecurity matter or other thing;
- 20 (i) the testing of any biosecurity matter or other thing;
- 21 (j) the obtaining of a biosecurity certificate in relation to any
22 biosecurity matter or other thing;
- 23 (k) the marking, branding, tagging or attaching of a device or other
24 identifier to any biosecurity matter or carrier to identify or trace
25 the biosecurity matter or carrier;
- 26 (l) the installation or use of a device at any premises to detect or
27 monitor the presence of any biosecurity matter or other thing;

- 1 (m) the installation or use of a device or bait at any premises to
2 capture, kill or otherwise control any biosecurity matter or other
3 thing;
- 4 (n) the destruction, disposal or eradication of any biosecurity matter
5 or other thing (including the manner of destruction, disposal or
6 eradication);
- 7 (o) any other matter prescribed by regulation.

8 **56 Control declarations—measures restricting movement of**
9 **people**

- 10 (1) A control declaration must not prohibit, regulate, control or require
11 the movement of a person.
- 12 (2) However, subsection (1) does not prevent a control measure being
13 imposed in relation to any biosecurity matter, premises, area, activity
14 or thing that has an impact on the movement of a person but is not
15 imposed for the purpose of restricting the movement of the person.

16 **57 Control declarations—measures about treatment of**
17 **people**

18 A control declaration must not require—

- 19 (a) a treatment measure to be carried out in relation to a person; or
20 (b) a person to provide a sample of their blood, hair, saliva or any
21 other body part or body fluid.

22 **58 Control declarations—measures about destruction of**
23 **things**

- 24 (1) A control declaration must not require or authorise the destruction of
25 any biosecurity matter or other thing unless—
- 26 (a) it is, or the Minister or an authorised person reasonably suspects
27 it is, prohibited biosecurity matter; or

- 1 (b) it is, or the Minister or an authorised person reasonably suspects
2 it is, a carrier of prohibited biosecurity matter; or
- 3 (c) it is a pest to which the control declaration relates; or
- 4 (d) both of the following apply:
- 5 (i) it is, or the Minister or an authorised person reasonably
6 suspects it is, infected with, infested with or carrying
7 biosecurity matter to which the control declaration relates;
- 8 (ii) there is no other reasonably practicable treatment measure
9 that could eliminate or minimise the biosecurity risk posed
10 by the biosecurity matter; or
- 11 (e) it is, or the Minister or an authorised person reasonably suspects
12 it is—
- 13 (i) abandoned; and
- 14 (ii) biosecurity matter to which the control declaration relates,
15 or a carrier of biosecurity matter to which the control
16 declaration relates.
- 17 (2) If a control declaration requires or authorises the destruction of any
18 biosecurity matter or other thing, the Minister must ensure that a copy
19 of the declaration is given to the owner or person in charge of the
20 biosecurity matter or other thing before it is destroyed, unless—
- 21 (a) there appears to be no-one immediately in control of it, and the
22 owner or person in charge cannot be found after reasonable
23 inquiry; and
- 24 (b) the Minister considers that, in the circumstances, the declaration
25 must be carried out without delay or prior notice to the owner or
26 person in charge.

- 1 **59** **Control declarations—nature conservation and heritage**
2 **matters**
- 3 (1) A control declaration must not require a person to interfere with any
4 of the following unless the Minister has consulted with the
5 conservator of flora and fauna:
- 6 (a) a native animal, a native fish or a native plant;
- 7 (b) a natural or constructed structure or feature in a reserve;
- 8 (c) infrastructure in a reserve;
- 9 (d) a site or object of historical, archaeological, palaeontological or
10 geological interest in a reserve.
- 11 (2) A control declaration must not require a person to interfere with a
12 heritage place or object unless the Minister has consulted with the
13 heritage council.
- 14 (3) A failure to comply with this section does not affect the validity of a
15 control declaration.
- 16 **60** **Control declarations—authorising actions and recovering**
17 **costs**
- 18 (1) If a person (the *liable person*) fails to comply with a control
19 declaration, the director-general may authorise a person to—
- 20 (a) enter premises other than residential premises; and
- 21 (b) take any action in relation to the premises, or anything at the
22 premises, that the liable person is required by the declaration to
23 take or is otherwise necessary to remedy the failure to comply.
- 24 (2) The director-general may recover from the liable person the
25 reasonable costs of taking action under this section.
- 26 *Note* An amount owing under a law may be recovered as a debt in a court of
27 competent jurisdiction or the ACAT (see [Legislation Act](#), s 177).

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

5 **61 Offences—fail to comply with control declaration**

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

7 Maximum penalty: 50 penalty units.

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

10 Maximum penalty: 1 000 penalty units.

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

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

14 *Note* The defendant has an evidential burden in relation to the matters
15 mentioned in s (4) (see [Criminal Code](#), s 58).

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

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

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

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

1 **Part 5** **Biosecurity permits and group**
2 **exemptions**

3 **Division 5.1** **Biosecurity permits**

4 **62** **Biosecurity permits authorise conduct otherwise**
5 **prohibited**

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

9 **Examples—prohibited conduct**

- 10 1 dealing with prohibited biosecurity matter (see s 34)
11 2 engaging in a prohibited dealing (see s 36)
12 3 failing to comply with an emergency declaration (see s 49)

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

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

20 **63** **Permits—application**

- 21 (1) A person may apply to the director-general for a biosecurity permit.
22 (2) An application must—
23 (a) be in writing; and
24 (b) state the conduct to be permitted; and

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

3 *Note* It is an offence to make a false or misleading statement, give false or
4 misleading information or produce a false or misleading document (see
5 [Criminal Code](#), pt 3.4).

6 **64 Permits—renewal application**

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

9 (2) An application must—

10 (a) be in writing; and

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

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

17 **65 Permits—additional information**

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

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

25 **66 Permits—change of information**

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

- 1 **67 Permits—decision on application**
- 2 (1) If a person applies for a biosecurity permit under section 63, or
3 renewal under section 64, the director-general must—
- 4 (a) approve the application; or
- 5 (b) refuse the application.
- 6 (2) The director-general may refuse the application if the director-general
7 is not satisfied that the applicant—
- 8 (a) is a suitable person to engage in the conduct to be authorised by
9 the permit; or
- 10 (b) has the qualifications, skills, knowledge and experience to
11 manage the biosecurity risk associated with the conduct to be
12 authorised by the permit.
- 13 (3) The director-general may also refuse the application—
- 14 (a) if satisfied that it would not be appropriate to issue, or renew,
15 the permit because of an emergency; or
- 16 (b) if satisfied that the biosecurity risk associated with the conduct
17 to be authorised by the permit is unacceptable; or
- 18 (c) on any grounds prescribed by regulation; or
- 19 (d) for any other reason the director-general considers appropriate.
- 20 (4) The director-general must give the applicant written notice of a
21 decision to approve or refuse the application (a *permit decision*
22 *notice*).
- 23 (5) If the director-general fails to give an applicant a permit decision
24 notice within the period prescribed by regulation, the director-general
25 is taken to have refused the application.

- 1 **68 Permits—suitable person**
- 2 (1) In deciding whether an applicant is a suitable person for
- 3 section 67 (2) (a), the director-general must consider the following
- 4 matters:
- 5 (a) the applicant’s history of compliance with this Act and any other
- 6 Act that is relevant to the biosecurity permit, and the applicant’s
- 7 capacity to comply in the future;
- 8 (b) the outcome of any biosecurity audit in relation to the applicant;
- 9 (c) any other matter prescribed by regulation;
- 10 (d) any other matter the director-general considers relevant.
- 11 (2) If the applicant is a corporation, the director-general must also
- 12 consider the matters mentioned in subsection (1) for each influential
- 13 person for the corporation.
- 14 **69 Permits—duration**
- 15 (1) A biosecurity permit or renewal—
- 16 (a) starts on the day it is given, or any later day stated in the permit
- 17 decision notice; and
- 18 (b) expires 5 years after it starts, or any earlier day stated in the
- 19 notice.
- 20 (2) A permit has no effect during any period in which it is suspended.
- 21 **70 Permits—amendment**
- 22 (1) The director-general may amend a biosecurity permit if satisfied that
- 23 the amendment is necessary.
- 24 (2) An amendment may be made—
- 25 (a) on the director-general’s own initiative; or
- 26 (b) on application by the permit-holder.

1 **71 Permits—conditions**

2 A biosecurity permit includes—

- 3 (a) a condition that the permit-holder must cooperate with any
4 biosecurity audit required by the director-general; and
- 5 (b) any other condition prescribed by regulation; and
- 6 (c) any other condition the director-general considers appropriate,
7 including any of the following:
- 8 (i) a condition requiring the permit-holder to take out and
9 maintain an insurance policy that indemnifies the
10 permit-holder against liability in relation to the conduct to
11 be authorised by the permit;
- 12 (ii) a condition requiring the permit-holder to do something
13 before their permit is suspended, cancelled or surrendered
14 to ensure that biosecurity matter and carriers are dealt with
15 appropriately on the suspension, cancellation or surrender;
- 16 (iii) a financial assurance condition under section 72;
- 17 (iv) a condition providing that the permit does not take effect
18 until a stated day, act or event.

19 **72 Permits—financial assurance conditions**

- 20 (1) The director-general may impose a condition on a biosecurity permit
21 requiring the permit-holder to provide a financial assurance
22 (a *financial assurance condition*) for anything required as a result of
23 any of the following events (a *secured event*):
- 24 (a) the permit-holder failing to comply with another condition on
25 their permit;
- 26 (b) the permit-holder giving any biosecurity matter that their permit
27 authorises them to deal with, to the director-general;

- 1 (c) the permit-holder engaging in conduct that they are not
2 authorised by the permit to engage in;
- 3 (d) the permit-holder no longer being authorised to engage in the
4 conduct authorised by the permit;
- 5 (e) the permit-holder being unable, for any reason, to continue to
6 engage in the conduct authorised by the permit.
- 7 (2) A financial assurance condition may require the permit-holder to
8 provide evidence of the financial assurance to the director-general.
- 9 (3) A financial assurance condition may require financial assurance in
10 1 or more of the following forms:
- 11 (a) a bank guarantee;
- 12 (b) a bond;
- 13 (c) an insurance policy;
- 14 (d) a form prescribed by regulation;
- 15 (e) any other form the director-general considers appropriate.
- 16 (4) A financial assurance condition may provide for the following
17 matters:
- 18 (a) how the amount of financial assurance is to be worked out;
- 19 (b) the circumstances in which the financial assurance may be
20 claimed or realised, and the procedure for claiming or realising
21 the financial assurance;
- 22 (c) actions that may be taken after a secured event, including—
- 23 (i) when stated actions may be taken by the director-general;
24 and
- 25 (ii) when the director-general may enter premises to take stated
26 actions;
- 27 (d) when stated information must be provided;

- 1 (e) auditing of actions that may result in the financial assurance
2 being claimed or realised;
- 3 (f) the administration of the financial assurance;
- 4 (g) the release of the financial assurance.
- 5 (5) A financial assurance may be claimed and realised, despite and
6 without affecting—
- 7 (a) any liability of the permit-holder for any penalty for an offence
8 for a failure to comply to which the assurance relates; and
- 9 (b) any other action that may be taken, or is required to be taken, in
10 relation to any failure to comply or other circumstance to which
11 the assurance relates.

12 **73 Offences—fail to comply with permit condition**

- 13 (1) A permit-holder must comply with the conditions on their biosecurity
14 permit.
- 15 Maximum penalty: 50 penalty units.
- 16 (2) A permit-holder commits an offence if—
- 17 (a) the permit is subject to a condition; and
- 18 (b) the permit-holder intentionally or negligently fails to comply
19 with the condition.
- 20 Maximum penalty: 2 500 penalty units.
- 21 (3) An offence against subsection (1) is a strict liability offence.

22 **74 Permits—grounds for suspension or cancellation**

- 23 Each of the following is a ground for suspending or cancelling a
24 biosecurity permit:
- 25 (a) the permit-holder has failed to comply with a provision of this
26 Act;

- 1 (b) the permit-holder is not a suitable person to engage in the
2 conduct authorised by the permit;
- 3 (c) the permit-holder does not have the qualifications, skills,
4 knowledge and experience to manage the biosecurity risk
5 associated with the conduct to be authorised by the permit;
- 6 (d) the permit-holder used false or misleading information to obtain
7 the permit;
- 8 (e) a ground for refusing to renew the permit exists;
- 9 (f) the suspension or cancellation is necessary because of an
10 emergency;
- 11 (g) any other ground prescribed by regulation.

12 **75 Permits—suspension**

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

- 16 (a) the grounds for the suspension; and
17 (b) when the suspension takes effect; and
18 (c) when the suspension ends; and
19 (d) the actions required (if any) for the suspension to be revoked.

20 **76 Permits—notice of proposed suspension**

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

- 23 (a) that the director-general proposes to suspend the permit; and
24 (b) the grounds for the proposed suspension; and

- 1 (c) that the permit-holder may, by a stated day that is at least
2 28 days after the day the notice is given to the permit-holder,
3 make a submission to the director-general about the proposed
4 suspension.
- 5 (2) If the permit-holder makes a submission before the stated day, the
6 director-general must take the submission into account in deciding
7 whether to suspend the permit.
- 8 (3) This section is subject to section 77.

9 **77 Permits—immediate suspension without prior notice**

- 10 (1) The director-general need not give notice under section 76 before
11 suspending a biosecurity permit—
- 12 (a) if the director-general is satisfied that the suspension is required
13 urgently because of the biosecurity impact of the conduct
14 authorised by the permit; or
- 15 (b) in an emergency; or
- 16 (c) for any other reason prescribed by regulation.
- 17 (2) However, if the director-general suspends a permit without giving
18 prior notice, the director-general must give the permit-holder a
19 written notice stating—
- 20 (a) the grounds for the suspension; and
- 21 (b) that the permit-holder may, by a stated day that is at least
22 28 days after the day the notice is given to the permit-holder,
23 make a submission to the director-general about the suspension.
- 24 (3) If the permit-holder makes a submission before the stated day, the
25 director-general must—
- 26 (a) consider the submission; and
- 27 (b) decide whether to revoke or continue the suspension; and
- 28 (c) give the permit-holder written notice of the decision.

1 **78 Permits—cancellation**

- 2 (1) If the director-general is satisfied there are grounds to cancel a
3 biosecurity permit, the director-general may cancel the permit by
4 giving the permit-holder a written cancellation notice stating—
- 5 (a) the grounds for the cancellation; and
- 6 (b) when the cancellation takes effect.
- 7 (2) However, in an emergency, the director-general may give the notice
8 orally, and give written confirmation of the cancellation to the
9 permit-holder as soon as practicable.

10 **79 Permits—notice of proposed cancellation**

- 11 (1) Before cancelling a biosecurity permit, the director-general must give
12 the permit-holder written notice stating—
- 13 (a) that the director-general proposes to cancel the permit; and
- 14 (b) the grounds for the proposed cancellation; and
- 15 (c) that the permit-holder may, by a stated day that is at least
16 28 days after the day the notice is given to the permit-holder,
17 make a submission to the director-general about the proposed
18 cancellation.
- 19 (2) If the permit-holder makes a submission before the stated day, the
20 director-general must take the submission into account in deciding
21 whether to cancel the permit.
- 22 (3) This section is subject to section 80.

- 1 **80 Permits—immediate cancellation without prior notice**
- 2 (1) The director-general need not give notice under section 79 before
3 cancelling a biosecurity permit—
- 4 (a) if the director-general is satisfied that the cancellation is
5 required urgently because of the biosecurity impact of the
6 conduct authorised by the permit; or
- 7 (b) in an emergency; or
- 8 (c) if the permit is suspended under section 75 and the
9 permit-holder—
- 10 (i) is given notice under section 76 (1) or section 77 (2); and
11 (ii) either—
- 12 (A) the director-general has considered any submissions
13 by the permit-holder; or
- 14 (B) the permit-holder did not make any submissions in the
15 period stated in the notice; or
- 16 (d) for any other reason prescribed by regulation.
- 17 (2) However, if the director-general cancels a permit without giving prior
18 notice, the director-general must give the permit-holder a written
19 notice stating—
- 20 (a) the grounds for the cancellation; and
- 21 (b) that the permit-holder may, by a stated day that is at least
22 28 days after the day the notice is given to the permit-holder,
23 make a submission to the director-general about the
24 cancellation.
- 25 (3) If the permit-holder makes a submission before the stated day, the
26 director-general must—
- 27 (a) consider the submission; and

- 1 (b) decide whether to revoke or continue the cancellation; and
2 (c) give the permit-holder written notice of the decision.

3 **81 Permits—surrender**

- 4 (1) A permit-holder may surrender their biosecurity permit.
5 (2) The surrender must—
6 (a) be in writing; and
7 (b) be given to the director-general; and
8 (c) include any information that the director-general reasonably
9 requires to determine the consequences of the surrender.
10 (3) The surrender does not take effect until the director-general gives the
11 permit-holder written notice that the director-general is satisfied that
12 the biosecurity matter and carriers involved in the conduct authorised
13 by the permit will be dealt with appropriately by the permit-holder.

14 **Division 5.2 Group exemptions**

15 **82 Group exemptions**

- 16 (1) A group exemption authorises a stated class of people to engage in
17 stated conduct that would otherwise be prohibited under this Act.
18 (2) However, a group exemption does not authorise conduct in
19 contravention of an emergency declaration or a biosecurity direction
20 given in an emergency unless the exemption expressly relates or
21 applies to the emergency.

22 **83 Group exemptions—declaration**

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

- 1 (2) However, the director-general must not declare a group exemption—
2 (a) if satisfied the biosecurity risk associated with the exemption is
3 unacceptable; or
4 (b) on any ground prescribed by regulation.
5 (3) A group exemption is a notifiable instrument.

6 **84 Group exemptions—duration**

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

9 **85 Group exemptions—conditions**

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

12 **86 Offences—fail to comply with group exemption condition**

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

15 Maximum penalty: 50 penalty units.

- 16 (2) A person commits an offence if—
17 (a) the person engages in conduct under the authority of a group
18 exemption; and
19 (b) the group exemption is subject to a condition; and
20 (c) the person intentionally or negligently fails to comply with the
21 condition.

22 Maximum penalty: 1 000 penalty units.

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

1 **Division 5.3 Permits and group exemptions**

2 **87 Permits and group exemptions—exercise of functions in**
3 **emergencies**

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

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

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

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

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

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

1 **Part 6** **Biosecurity registration**

2 **88** **Meaning of *regulated dealing*—pt 6**

3 In this part:

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

6 **89** **Biosecurity registration authorises regulated dealings**

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

9 **90** **Offences—engage in regulated dealing without** 10 **registration**

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

13 Maximum penalty: 50 penalty units.

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

- 15 (a) intentionally or negligently engages in a regulated dealing; and
16 (b) is not registered to engage in the dealing.

17 Maximum penalty: 1 000 penalty units.

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

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

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

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

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

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

4 **91 Registration—application**

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

7 (2) An application must—

8 (a) be in writing; and

9 (b) state the regulated dealing; and

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

12 *Note* It is an offence to make a false or misleading statement, give false or
13 misleading information or produce a false or misleading document (see
14 [Criminal Code](#), pt 3.4).

15 **92 Registration—renewal application**

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

18 (2) An application must—

19 (a) be in writing; and

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

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

1 **93 Registration—additional information**

- 2 (1) The director-general may, by written notice, require an applicant for
3 registration under section 91, or renewal under section 92, to give the
4 director-general additional information that the director-general
5 reasonably needs to decide the application, within a stated time and
6 at a stated place.
- 7 (2) If the applicant does not comply with a requirement in the notice, the
8 director-general may refuse to consider the application further.

9 **94 Registration—change of information**

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

14 **95 Registration—decision on application**

- 15 (1) If a person applies for registration to engage in a regulated dealing
16 under section 91, or renewal under section 92, the director-general
17 must—
- 18 (a) approve the application; or
19 (b) refuse the application.
- 20 (2) The director-general may refuse the application if the director-general
21 is not satisfied that the applicant—
- 22 (a) is a suitable person to engage in the regulated dealing; or
23 (b) has the skills, knowledge or experience to manage the
24 biosecurity risk associated with the regulated dealing authorised
25 by the registration.

- 1 (3) The director-general may also refuse the application—
- 2 (a) if satisfied that it would not be appropriate to register the
- 3 applicant, or renew the registration, because of an emergency;
- 4 or
- 5 (b) if satisfied that the biosecurity risk associated with the regulated
- 6 dealing authorised by the registration is unacceptable; or
- 7 (c) on any grounds prescribed by regulation; or
- 8 (d) for any other reason the director-general considers appropriate
- 9 for refusing the application.
- 10 (4) The director-general must give the applicant written notice of a
- 11 decision to approve or refuse the application (a *registration decision*
- 12 *notice*).
- 13 (5) If the director-general fails to give an applicant a registration decision
- 14 notice within the period prescribed by regulation, the director-general
- 15 is taken to have refused the application.

16 **96 Registration—suitable person**

- 17 (1) In deciding whether an applicant is a suitable person for
- 18 section 95 (2) (a), the director-general must consider the following
- 19 matters:
- 20 (a) the applicant’s history of compliance with this Act and any other
- 21 Act that is relevant to the registration, and the applicant’s
- 22 capacity to comply in the future;
- 23 (b) the outcome of any biosecurity audit in relation to the applicant;
- 24 (c) any other matter prescribed by regulation;
- 25 (d) any other matter the director-general considers relevant.
- 26 (2) If the applicant is a corporation, the director-general must also
- 27 consider the matters mentioned in subsection (1) for each influential
- 28 person for the corporation.

1 **97 Registration—duration**

- 2 (1) A person’s registration or renewal—
- 3 (a) starts on the day it is given, or any later day stated in the
- 4 registration decision notice; and
- 5 (b) expires 5 years after it starts, or any earlier day stated in the
- 6 notice.
- 7 (2) Registration has no effect during any period in which it is suspended.

8 **98 Registration—amendment**

- 9 (1) The director-general may amend a person’s registration if satisfied
- 10 that the amendment is necessary.
- 11 (2) An amendment may be made—
- 12 (a) on the director-general’s own initiative; or
- 13 (b) on application by the registered person.

14 **99 Registration—conditions**

- 15 (1) Registration includes—
- 16 (a) a condition that the registered person must cooperate with any
- 17 biosecurity audit required by the director-general; and
- 18 (b) any other condition prescribed by regulation; and
- 19 (c) any other condition the director-general considers appropriate,
- 20 including any of the following:
- 21 (i) a condition requiring the person to engage in the regulated
- 22 dealing in accordance with all or part of a stated standard,
- 23 code, guideline, protocol, program or other instrument;
- 24 (ii) a condition requiring the person to carry out stated works,
- 25 or put in place stated measures, to manage the biosecurity
- 26 risk involved in the regulated dealing;

- 1 (iii) a condition requiring the person to have in place an
2 alternative arrangement for the regulated dealing, that has
3 been approved by the director-general;
- 4 (iv) a condition requiring the person to take out and maintain
5 an insurance policy that indemnifies the person against
6 liability in relation to the regulated dealing;
- 7 (v) a condition requiring the person to do something before
8 their registration is suspended, cancelled or surrendered to
9 ensure that the biosecurity matter and carriers involved in
10 the regulated dealing are dealt with appropriately on the
11 suspension, cancellation or surrender;
- 12 (vi) a condition providing that the registration does not take
13 effect until a stated day, act or event.
- 14 (2) In this section:
- 15 *alternative arrangement*, for a regulated dealing, means a plan or
16 arrangement relating to the regulated dealing, that takes effect if the
17 person—
- 18 (a) is no longer registered to engage in the regulated dealing; or
19 (b) is unable, for any reason, to continue to engage in the regulated
20 dealing.

21 **100 Offences—fail to comply with registration condition**

- 22 (1) A registered person must comply with the conditions on their
23 registration.
24 Maximum penalty: 50 penalty units.
- 25 (2) A registered person commits an offence if—
26 (a) the person's registration is subject to a condition; and

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

3 Maximum penalty: 1 000 penalty units.

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

5 **101 Registration—grounds for suspension or cancellation**

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

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

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

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

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

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

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

20 (g) any other ground prescribed by regulation.

21 **102 Registration—suspension**

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

25 (a) the grounds for the suspension; and

26 (b) when the suspension takes effect; and

- 1 (c) when the suspension ends; and
- 2 (d) the actions required (if any) for the suspension to be revoked.
- 3 **103 Registration—notice of proposed suspension**
- 4 (1) Before suspending a person’s registration, the director-general must
- 5 give the person a written notice stating—
- 6 (a) that the director-general proposes to suspend the registration;
- 7 and
- 8 (b) the grounds for the proposed suspension; and
- 9 (c) that the person may, by a stated day that is at least 14 days after
- 10 the day the notice is given to the person, make a submission to
- 11 the director-general about the proposed suspension.
- 12 (2) If the person makes a submission before the stated day, the
- 13 director-general must take the submission into account in deciding
- 14 whether to suspend the person’s registration.
- 15 (3) This section is subject to section 104.
- 16 **104 Registration—immediate suspension without prior notice**
- 17 (1) The director-general need not give notice under section 103 before
- 18 suspending a person’s registration—
- 19 (a) if the director-general is satisfied that the suspension is required
- 20 urgently because of the biosecurity impact of the regulated
- 21 dealing being carried out by the registered person; or
- 22 (b) in an emergency; or
- 23 (c) for any other reason prescribed by regulation.
- 24 (2) However, if the director-general suspends a person’s registration
- 25 without giving prior notice, the director-general must give the person
- 26 a written notice stating—
- 27 (a) the grounds for the suspension; and

- 1 (b) that the person may, by a stated day that is at least 14 days after
2 the day the notice is given to the person, make a submission to
3 the director-general about the suspension.
- 4 (3) If the person makes a submission before the stated day, the
5 director-general must—
- 6 (a) consider the submission; and
7 (b) decide whether to revoke or continue the suspension; and
8 (c) give the person written notice of the decision.

9 **105 Registration—cancellation**

- 10 If the director-general is satisfied there are grounds to cancel a
11 person's registration, the director-general may cancel the registration
12 by giving the registered person a written cancellation notice stating—
- 13 (a) the grounds for the cancellation; and
14 (b) when the cancellation takes effect.

15 **106 Registration—notice of proposed cancellation**

- 16 (1) Before cancelling a person's registration, the director-general must
17 give the person a written notice stating—
- 18 (a) that the director-general proposes to cancel the registration; and
19 (b) the grounds for the proposed cancellation; and
20 (c) that the person may, by a stated day that is at least 14 days after
21 the day the notice is given to the person, make a submission to
22 the director-general about the proposed cancellation.
- 23 (2) If the person makes a submission before the stated day, the
24 director-general must take the submission into account in deciding
25 whether to cancel the person's registration.

- 1 **107 Registration—immediate cancellation without prior notice**
- 2 (1) The director-general need not give notice under section 106 before
3 cancelling a person’s registration—
- 4 (a) if the director-general is satisfied that the cancellation is
5 required urgently because of the biosecurity impact of the
6 regulated dealing being carried out by the registered person; or
- 7 (b) in an emergency; or
- 8 (c) if the registration is suspended under section 102 and the
9 registered person—
- 10 (i) is given notice under section 103 (1) or section 104 (2);
11 and
- 12 (ii) either—
- 13 (A) the director-general has considered any submissions
14 by the registered person; or
- 15 (B) the registered person did not make any submissions
16 in the period stated in the notice; or
- 17 (d) for any other reason prescribed by regulation.
- 18 (2) However, if the director-general cancels a person’s registration
19 without giving prior notice, the director-general must give the
20 registered person a written notice stating—
- 21 (a) the grounds for the cancellation; and
- 22 (b) that the registered person may, by a stated day that is at least
23 14 days after the day the notice is given to the registered person,
24 make a submission to the director-general about the
25 cancellation.

- 1 (3) If the registered person makes a submission before the stated day, the
2 director-general must—
- 3 (a) consider the submission; and
- 4 (b) decide whether to revoke or continue the cancellation; and
- 5 (c) give the registered person written notice of the decision.

6 **108 Registration—surrender**

- 7 (1) A person may surrender their biosecurity registration.
- 8 (2) The surrender must—
- 9 (a) be in writing; and
- 10 (b) be given to the director-general; and
- 11 (c) include any information that the director-general reasonably
12 requires to determine the consequences of the surrender.
- 13 (3) The surrender does not take effect until the director-general gives the
14 person written notice that the director-general is satisfied the
15 biosecurity matter and carriers involved in the regulated dealing will
16 be dealt with appropriately by the person.

17 **109 Registration—exercise of functions in emergencies**

- 18 (1) A provision of this part that provides for the director-general to
19 exercise a function in an emergency provides for the director-general
20 to exercise that function if—
- 21 (a) the director-general reasonably believes it is necessary to
22 exercise the function because of an emergency declaration; or
- 23 (b) the director-general otherwise reasonably believes it is
24 necessary to exercise the function because—
- 25 (i) a biosecurity emergency has happened, is happening or is
26 likely to happen; or

- 1 (ii) the director-general reasonably suspects a biosecurity
2 emergency has happened, is happening or is likely to
3 happen.
- 4 (2) A function under this part is taken to have been exercised in an
5 emergency if it is exercised by the director-general in the
6 circumstances mentioned in subsection (1).

1 **Part 7** **Biosecurity certificates**

2 **110 Biosecurity certificates**

- 3 (1) A biosecurity certifier may issue a certificate that certifies 1 or more
4 of the following matters (a *biosecurity certificate*):
- 5 (a) that any biosecurity matter, premises or other thing is free from,
6 or contains a stated level of, any stated biosecurity matter;
 - 7 (b) that any biosecurity matter, premises or other thing is in a stated
8 condition;
 - 9 (c) that any biosecurity matter, premises or other thing has been the
10 subject of a stated treatment measure;
 - 11 (d) that any biosecurity matter, premises or other thing meets stated
12 requirements;
 - 13 (e) any other matter prescribed by regulation.
- 14 (2) A biosecurity certificate remains in force for the period stated in the
15 certificate.

16 **111 Interstate biosecurity certificates**

- 17 (1) In this Act:
- 18 *interstate biosecurity certificate* means a certificate issued under a
19 corresponding biosecurity law, that certifies a matter that could be
20 certified in a biosecurity certificate.
- 21 (2) A person is taken to hold a biosecurity certificate for any biosecurity
22 matter, premises or other thing if the person holds an interstate
23 biosecurity certificate for the biosecurity matter, premises or thing.

24 **112 Offences—false or misleading biosecurity certificate**

- 25 (1) A person must not issue a false or misleading biosecurity certificate.
26 Maximum penalty: 50 penalty units.

- 1 (2) A person commits an offence if—
- 2 (a) the person issues a biosecurity certificate; and
- 3 (b) the certificate is false or misleading; and
- 4 (c) the person knows, or is negligent about whether, the
- 5 certificate—
- 6 (i) is false or misleading; or
- 7 (ii) omits anything without which the certificate is false or
- 8 misleading.

9 Maximum penalty: 1 000 penalty units.

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

- 11 (4) In this section:

12 *biosecurity certificate* includes an interstate biosecurity certificate.

13 **113 Offences—false representation about biosecurity**

14 **certificate**

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

17 Maximum penalty: 50 penalty units.

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

21 Maximum penalty: 1 000 penalty units.

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

- 23 (4) In this section:

24 *biosecurity certificate* includes an interstate biosecurity certificate.

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

4 **116 Biosecurity audits—notice to authorisation-holder**

- 5 (1) A biosecurity audit may be carried out only if the person requiring the
6 audit has given the authorisation-holder written notice at least
7 24 hours before the audit is to be carried out.
- 8 (2) However, an audit may be carried out at any time if the person
9 requiring the audit believes on reasonable grounds that the risk is so
10 serious and urgent that immediate auditing without notice is
11 necessary.

12 **117 Biosecurity audits—reporting requirements**

- 13 (1) If a biosecurity auditor carries out a biosecurity audit, the auditor must
14 prepare a written report about the audit (an *audit report*).
- 15 (2) The auditor must give the audit report to the following people within
16 21 days after the audit is completed, or any longer period prescribed
17 by regulation:
- 18 (a) the person who required the audit;
- 19 (b) the audited authorisation-holder.
- 20 (3) An audit report must include the biosecurity auditor's opinion about
21 the following matters:
- 22 (a) if the purpose of the audit is to assess an authorisation-holder's
23 eligibility to hold their permit, registration or approval—
24 whether the authorisation-holder meets the eligibility criteria;
- 25 (b) whether the authorisation-holder is complying, or capable of
26 complying, with this Act, including the auditors reasons for the
27 opinion;

- 1 (c) if the audit indicates a failure to comply with this Act or another
2 deficiency—
- 3 (i) the nature of the failure to comply or deficiency; and
4 (ii) the action required to remedy the failure or deficiency;
- 5 (d) if a previous biosecurity audit has indicated a failure to comply
6 with this Act or another deficiency, the action (if any) taken to
7 remedy the failure or deficiency;
- 8 (e) any other matter prescribed by regulation.
- 9 (4) A certifier authority or auditor authority must give a copy of an audit
10 report to the director-general if directed to do so by the
11 director-general.

12 **118 Biosecurity audits—immediate reporting requirements**

- 13 (1) This section applies if a biosecurity auditor becomes aware of, or
14 suspects, any of the following during a biosecurity audit:
- 15 (a) that the authorisation-holder has failed to comply with this Act
16 and that failure has resulted in a critical non-compliance
17 prescribed by regulation;
- 18 (b) that a person is in possession of biosecurity matter in
19 contravention of this Act;
- 20 (c) that a biosecurity event has happened, is happening, or is likely
21 to happen;
- 22 (d) that a biosecurity certificate has been issued that is false or
23 misleading in a material particular;
- 24 (e) that an event prescribed by regulation has happened, is
25 happening, or is likely to happen.

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

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

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

7 **119 Biosecurity audits—costs**

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

1 **Part 9** **Biosecurity certifiers, auditors**
2 **and authorities**

3 **Division 9.1** **Certifiers, auditors and authorities**

4 **120** **Definitions—pt 9**

5 In this part:

6 ***approval-holder***—

- 7 (a) means an auditor authority, biosecurity auditor, biosecurity
8 certifier or certifier authority; but
- 9 (b) does not include a corporation taken to be approved as one of
10 those entities under section 122 (Recognition of interstate
11 certifiers, auditors and authorities).

12 ***auditor authority*** means—

- 13 (a) a person approved as an auditor authority by the director-general
14 under section 121 (Approval of certifiers, auditors and
15 authorities); or
- 16 (b) a corporation taken to be approved as an auditor authority under
17 section 122 (1) (d).

18 ***biosecurity auditor*** means—

- 19 (a) a person approved as a biosecurity auditor by—
20 (i) the director-general under section 121; or
21 (ii) an auditor authority; or
- 22 (b) an authorised person approved by the director-general as a
23 biosecurity auditor under section 121; or
- 24 (c) a corporation taken to be approved as a biosecurity auditor under
25 section 122 (1) (b).

- 1 ***biosecurity certifier*** means—
- 2 (a) a person approved as a biosecurity certifier by—
- 3 (i) the director-general under section 121; or
- 4 (ii) a certifier authority; or
- 5 (b) an authorised person approved by the director-general as a
- 6 biosecurity certifier under section 121; or
- 7 (c) a corporation taken to be approved as a biosecurity certifier
- 8 under section 122 (1) (a).

- 9 ***certifier authority*** means—
- 10 (a) a person approved as a certifier authority by the director-general
- 11 under section 121; or
- 12 (b) a corporation taken to be approved as a certifier authority under
- 13 section 122 (1) (c).

14 **121 Approval of authorised people as certifiers and auditors**

15 The director-general may, by written notice, approve an authorised

16 person as a biosecurity certifier or biosecurity auditor.

17 **122 Recognition of interstate certifiers, auditors and**

18 **authorities**

- 19 (1) A corporation that holds an interstate authorisation—
- 20 (a) to issue biosecurity certificates under the corresponding
- 21 biosecurity law—is taken to be approved as a biosecurity
- 22 certifier; or
- 23 (b) to carry out biosecurity audits under the corresponding
- 24 biosecurity law—is taken to be approved as a biosecurity
- 25 auditor; or

- 1 (c) to authorise people as biosecurity certifiers under the
2 corresponding biosecurity law—is taken to be approved as a
3 certifier authority; or
- 4 (d) to authorise people as biosecurity auditors under the
5 corresponding biosecurity law—is taken to be approved as an
6 auditor authority.
- 7 *Note 1* An individual who holds an authorisation (however described) as a
8 biosecurity certifier, biosecurity auditor, certifier authority or auditor
9 authority in another State may have automatic deemed registration as a
10 biosecurity certifier, biosecurity auditor, certifier authority or auditor
11 authority in the ACT under the *Mutual Recognition Act 1992* (Cwlth).
- 12 *Note 2* **State** includes the Northern Territory (see [Legislation Act](#), dict, pt 1).
- 13 (2) An approval under subsection (1) is subject to—
- 14 (a) a condition that before the corporation starts exercising a
15 function under the approval, the corporation gives the
16 director-general a copy of its interstate authorisation; and
- 17 (b) a condition that before an individual starts exercising a function
18 on behalf of a corporation under the approval, the corporation
19 gives the director-general written notice of the name and contact
20 details of the individual; and
- 21 (c) a condition that the corporation must cooperate with any
22 biosecurity audit required by the director-general; and
- 23 (d) any condition imposed under the corresponding biosecurity law;
24 and
- 25 (e) any other condition prescribed by regulation.

- 1 (3) In this section:
- 2 *interstate authorisation* means an authorisation (however described)
- 3 under a corresponding biosecurity law that is not—
- 4 (a) suspended, cancelled or otherwise ended under the
- 5 corresponding biosecurity law; or
- 6 (b) subject to a non-compliance notice given under section 123.

7 **123 Interstate authorisations—non-compliance notice**

8 If the director-general is satisfied a corporation taken to be approved

9 under section 122 has failed to comply with this Act, including by

10 failing to comply with a condition of the approval, the

11 director-general may give the corporation a written notice

12 (a *non-compliance notice*) stating—

- 13 (a) the reasons for giving the notice; and
- 14 (b) when the notice takes effect.

15 **124 Interstate authorisations—proposed non-compliance**

16 **notice requirements**

17 (1) Before giving a corporation a non-compliance notice under

18 section 123, the director-general must give the corporation a written

19 notice stating—

- 20 (a) that the director-general proposes to give it the non-compliance
- 21 notice; and
- 22 (b) the reasons for proposing to give it the non-compliance notice;
- 23 and
- 24 (c) that the corporation may, by a stated day that is at least 28 days
- 25 after the day the notice is given to the corporation, make a
- 26 submission to the director-general about the proposed
- 27 non-compliance notice.

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

4 **125 Interstate authorisations—revocation of non-compliance**
5 **notice**

- 6 (1) This section applies if the director-general has given a corporation a
7 non-compliance notice under section 123.
- 8 (2) The director-general may revoke the non-compliance notice if
9 satisfied that the corporation has appropriately dealt with the
10 non-compliance.

11 **126 Authorisation of certifiers, auditors and authorities to**
12 **exercise functions**

13 For this Act—

- 14 (a) a biosecurity certifier is authorised to issue biosecurity
15 certificates; and
- 16 (b) a biosecurity auditor is authorised to carry out biosecurity
17 audits; and
- 18 (c) a certifier authority is authorised to approve biosecurity
19 certifiers; and
- 20 (d) an auditor authority is authorised to approve biosecurity
21 auditors.

1 **Division 9.2** **Approval of certifiers, auditors and**
2 **authorities**

3 **127 Approvals—application**

- 4 (1) A person may apply to the director-general for approval as—
5 (a) a biosecurity certifier; or
6 (b) a biosecurity auditor; or
7 (c) a certifier authority; or
8 (d) an auditor authority.
9 (2) An application must—
10 (a) be in writing; and
11 (b) include any information that the director-general reasonably
12 requires to decide the application.

13 *Note* It is an offence to make a false or misleading statement, give false or
14 misleading information or produce a false or misleading document (see
15 [Criminal Code](#), pt 3.4).

16 **128 Approvals—renewal application**

- 17 (1) An approval-holder may apply to the director-general for renewal of
18 their approval.
19 (2) An application must—
20 (a) be in writing; and
21 (b) include any information that the director-general reasonably
22 requires to decide the application.
23 (3) If an application for renewal is made before the approval expires, the
24 approval continues in force (unless otherwise suspended, cancelled or
25 surrendered) until the director-general notifies the applicant of a
26 decision on the application.

1 **129 Approvals—additional information**

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

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

9 **130 Approvals—change of information**

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

14 **131 Approvals—decision on application**

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

17 (a) approve the application; or

18 (b) refuse the application.

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

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

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

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

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

26 (b) on any grounds prescribed by regulation; or

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

- 1 (3) The director-general must give the applicant written notice of a
2 decision to approve or refuse the application (an *approval decision*
3 *notice*).
- 4 (4) If the director-general fails to give an applicant an approval decision
5 notice within the period prescribed by regulation, the director-general
6 is taken to have refused the application.

7 **132 Approvals—suitable person**

- 8 (1) In deciding whether an applicant is a suitable person for
9 section 131 (2) (a) (i), the director-general must consider the
10 following matters:
- 11 (a) the applicant's history of compliance with this Act and any other
12 Act that is relevant to the approval, and the applicant's capacity
13 to comply in the future;
- 14 (b) the outcome of any biosecurity audit in relation to the applicant;
- 15 (c) any other matter prescribed by regulation;
- 16 (d) any other matter the decision-maker considers relevant.
- 17 (2) If the applicant is a corporation, the director-general must also
18 consider the matters mentioned in subsection (1) for each influential
19 person for the corporation.

20 **133 Approvals—authority criteria**

- 21 The director-general may approve an applicant under section 131 as
22 a certifier authority or auditor authority only if satisfied that the
23 applicant—
- 24 (a) will approve suitable people as biosecurity certifiers or
25 biosecurity auditors, including by requiring biosecurity audits;
26 and

- 1 (b) will monitor approval-holders' ongoing suitability, including by
2 having an appropriate, publicly available, audit frequency policy
3 requiring biosecurity audits; and
- 4 (c) will impose appropriate conditions on approvals, including a
5 condition that approval-holders must cooperate with any
6 required biosecurity audit; and
- 7 (d) will appropriately provide for quality assurance of
8 approval-holders; and
- 9 (e) will identify and deal with approval-holders' noncompliance
10 with any conditions on their approval, including by suspending
11 and cancelling approvals; and
- 12 (f) has appropriate procedures for reviewing decisions and
13 resolving disputes about approvals; and
- 14 (g) will impose reasonable fees for approvals; and
- 15 (h) meets any other requirement prescribed by regulation.

16 **134 Approvals—duration**

- 17 (1) An approval, and a renewal of an approval, under section 131—
- 18 (a) starts on the day it is given, or any later day stated in the approval
19 decision notice; and
- 20 (b) expires 5 years after it starts, or any earlier day stated in the
21 notice.
- 22 (2) An approval has no effect during any period in which it is suspended.

23 **135 Approvals—amendment**

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

- 1 (2) An amendment may be made—
2 (a) on the director-general’s own initiative; or
3 (b) on application by the approval-holder.

4 **136 Approvals—conditions generally**

5 An approval under section 131 includes—

- 6 (a) a condition that the approval-holder must cooperate with any
7 biosecurity audit required by the director-general; and
8 (b) any other condition prescribed by regulation; and
9 (c) any other condition the director-general considers appropriate,
10 including any of the following:
11 (i) a condition requiring the approval-holder to exercise their
12 functions under the approval in accordance with all or part
13 of a stated standard, code, guideline, protocol, program or
14 other instrument;
15 (ii) a condition requiring the approval-holder to take out and
16 maintain an insurance policy that indemnifies the
17 approval-holder against liability in relation to exercising
18 their functions under the approval;
19 (iii) a condition requiring the approval-holder to do something
20 before their approval is suspended, cancelled or
21 surrendered to ensure that biosecurity matter and carriers
22 are dealt with appropriately on the suspension, cancellation
23 or surrender;
24 (iv) for a certifier authority or auditor authority—a condition
25 relating to the criteria mentioned in section 133.

1 **137 Approvals—additional conditions for corporations**

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

- 4 (a) ensure that each individual exercising a function on behalf of the
5 corporation under the approval has the required qualifications,
6 skills, knowledge and experience; and
7 (b) before an individual starts exercising a function on behalf of the
8 corporation under the approval, give the director-general written
9 notice of the name and contact details of the individual.

10 **138 Offences—fail to comply with approval condition**

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

13 Maximum penalty: 50 penalty units.

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

17 Maximum penalty: 1 000 penalty units.

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

19 **139 Approvals—grounds for suspension or cancellation**

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

- 22 (a) the approval-holder has failed to comply with a provision of this
23 Act;
24 (b) the approval-holder is not a suitable person to hold the approval;
25 (c) for a certifier authority or auditor authority—the
26 approval-holder does not satisfy a criterion mentioned in
27 section 133;

- 1 (d) the approval-holder does not have the qualifications, skills,
2 knowledge and experience required to continue to hold the
3 approval;
- 4 (e) the approval-holder used false or misleading information to
5 obtain the approval;
- 6 (f) a ground for refusing to renew the approval exists;
- 7 (g) any other ground prescribed by regulation.

8 **140 Approvals—suspension**

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

- 12 (a) the grounds for the suspension; and
13 (b) when the suspension takes effect; and
14 (c) when the suspension ends; and
15 (d) the actions required (if any) for the suspension to be revoked.

16 **141 Approvals—notice of proposed suspension**

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

- 19 (a) that the director-general proposes to suspend the approval; and
20 (b) the grounds for the proposed suspension; and
21 (c) that the approval-holder may, by a stated day that is at least
22 28 days after the day the notice is given to the approval-holder,
23 make a submission to the director-general about the proposed
24 suspension.

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

4 (3) This section is subject to section 142.

5 **142 Approvals—immediate suspension without prior notice**

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

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

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

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

14 (b) in an emergency; or

15 (c) for any other reason prescribed by regulation.

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

19 (a) the grounds for the suspension; and

20 (b) that the approval-holder may, by a stated day that is at least
21 28 days after the day the notice is given to the approval-holder,
22 make a submission to the director-general about the suspension.

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

25 (a) consider the submission; and

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

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

1 **143 Approvals—cancellation**

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

- 5 (a) the grounds for the cancellation; and
6 (b) when the cancellation takes effect.

7 **144 Approvals—notice of proposed cancellation**

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

- 10 (a) that the director-general proposes to cancel the approval; and
11 (b) the grounds for the proposed cancellation; and
12 (c) that the approval-holder may, by a stated day that is at least
13 28 days after the day the notice is given to the approval-holder,
14 make a submission to the director-general about the proposed
15 cancellation.

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

19 **145 Approvals—surrender**

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

21 (2) The surrender must—

- 22 (a) be in writing; and
23 (b) be given to the director-general; and
24 (c) include any information that the director-general reasonably
25 requires to determine the consequences of the surrender.

1 **Part 10** **Biosecurity directions**

2 **146** **Biosecurity directions**

- 3 (1) An authorised person may give a direction to a person, including a
4 direction mentioned in sections 148 to 151, for a purpose mentioned
5 in subsection (2) (a *biosecurity direction*).
- 6 (2) An authorised person may give a biosecurity direction that—
- 7 (a) prohibits, regulates or controls the person doing something, if
8 the authorised person reasonably believes that the direction is
9 necessary for 1 or more of the following purposes:
- 10 (i) to prevent the person from failing to comply or continuing
11 to fail to comply with this Act;
- 12 (ii) to manage a biosecurity risk or biosecurity impact;
- 13 (iii) to enforce this Act; or
- 14 (b) requires the person to do something, if the authorised person
15 reasonably believes that the direction is necessary for 1 or more
16 of the following purposes:
- 17 (i) to ensure the person complies with a biosecurity duty
18 imposed on the person under this Act;
- 19 (ii) to ensure the person remedies a failure to comply,
20 suspected failure to comply or likely failure to comply with
21 this Act by the person;
- 22 (iii) to manage a biosecurity risk posed by a dealing of the
23 person, or suspected dealing of the person, with biosecurity
24 matter, a carrier or a potential carrier;
- 25 (iv) to enforce this Act.
- 26 (3) A biosecurity direction may be subject to any condition the authorised
27 person considers reasonable in the circumstances.

- 1 **147 Biosecurity directions—giving directions**
- 2 (1) An authorised person may give a biosecurity direction to a person
- 3 by—
- 4 (a) giving the direction in writing; or
- 5 (b) giving the direction orally; or
- 6 (c) if the direction is to a person at particular premises—
- 7 (i) giving the direction to the owner, occupier or person
- 8 apparently in charge of the premises; and
- 9 (ii) displaying the direction in a prominent place at or adjacent
- 10 to the premises; or
- 11 (d) if it is an emergency and the person is an occupier of premises—
- 12 displaying a copy of the direction in a prominent place at, or
- 13 adjacent to, the premises.
- 14 (2) If a biosecurity direction is given—
- 15 (a) orally—an authorised person must, within 7 days, give a written
- 16 confirmation of the direction to the person (unless the direction
- 17 has already been complied with); or
- 18 (b) in an emergency—
- 19 (i) the direction must include a warning that the direction is
- 20 being given in an emergency; and
- 21 (ii) an authorised person must, within 7 days, give a written
- 22 copy of the direction to the person (unless the direction has
- 23 already been complied with).
- 24 (3) A failure to comply with subsection (2) (b) (i) does not affect the
- 25 validity of a biosecurity direction.

- 1 **148 Biosecurity directions—scope of directions**
- 2 A biosecurity direction may prohibit, regulate, control or require any
- 3 of the following:
- 4 (a) activities that involve biosecurity matter, a carrier or a potential
 - 5 carrier;
 - 6 (b) the use of premises for an activity that involves biosecurity
 - 7 matter, a carrier or a potential carrier;
 - 8 (c) the movement of any biosecurity matter or other thing;
 - 9 (d) the isolation, confinement or detention of any biosecurity matter
 - 10 or other thing;
 - 11 (e) treatment measures to be carried out in relation to any
 - 12 biosecurity matter, premises or other thing;
 - 13 (f) the erection or repair of any fencing, gate or other method of
 - 14 enclosure, or the taking of any other stated security or
 - 15 containment measure in relation to any premises, biosecurity
 - 16 matter or other thing;
 - 17 (g) the erection of signs;
 - 18 (h) the provision of samples of any biosecurity matter or other thing;
 - 19 (i) the testing of any biosecurity matter or other thing;
 - 20 (j) the obtaining of a biosecurity certificate in relation to any
 - 21 biosecurity matter or other thing;
 - 22 (k) the marking, branding, tagging or attaching of a device or other
 - 23 identifier to any biosecurity matter or carrier to identify or trace
 - 24 the biosecurity matter or carrier;
 - 25 (l) the installation or use of a device at any premises to detect or
 - 26 monitor the presence of any biosecurity matter or other thing;

- 1 (m) the installation or use of a device or bait at any premises to
2 capture, kill or otherwise control any biosecurity matter or other
3 thing;
- 4 (n) the destruction, disposal or eradication of any biosecurity matter
5 or other thing (including the manner of destruction, disposal or
6 eradication);
- 7 (o) any other matter expressly—
8 (i) authorised by an emergency declaration; or
9 (ii) authorised by a control declaration; or
10 (iii) prescribed by regulation.

11 **149 Biosecurity directions—restricting movement of people**

- 12 (1) In an emergency, a biosecurity direction may do 1 or more of the
13 following:
- 14 (a) prohibit, regulate or control entry into, or exit from, any stated
15 premises or stated area;
- 16 (b) prohibit, regulate or control the use of any road within, or going
17 into or out of, any stated premises or stated area (including by
18 closing roads).
- 19 (2) A biosecurity direction must not prohibit, regulate or control the
20 movement of a person, except as expressly—
21 (a) provided in subsection (1); or
22 (b) authorised by an emergency declaration.
- 23 (3) However, subsection (2) does not prevent a biosecurity direction
24 being imposed in relation to any biosecurity matter, premises, area,
25 activity or other thing, that has an impact on the movement of a person
26 but is not imposed for the purpose of restricting the movement of the
27 person.

- 1 **150 Biosecurity directions—treatment of people**
- 2 (1) In an emergency, a biosecurity direction may direct a person to carry
3 out an external treatment measure, or permit an external treatment
4 measure to be carried out, in relation to the person.
- 5 (2) A biosecurity direction must not require—
- 6 (a) a treatment measure to be carried out in relation to a person
7 except as expressly—
- 8 (i) provided in subsection (1); or
- 9 (ii) authorised by an emergency declaration; or
- 10 (b) a person to provide a sample of their blood, hair, saliva or any
11 other body part or body fluid.
- 12 **151 Biosecurity directions—inspection of people**
- 13 (1) In an emergency, a biosecurity direction may direct a person to permit
14 an authorised person to inspect the person for biosecurity matter, a
15 carrier or a potential carrier.
- 16 (2) However, a requirement under subsection (1) only authorises an
17 authorised person to require the person to do 1 or more of the
18 following:
- 19 (a) to submit to a visual inspection (including of the exterior of the
20 person’s clothing, accessories and shoes);
- 21 (b) to shake, or otherwise move, the person’s hair.
- 22 **152 Biosecurity directions—destruction of things**
- 23 A biosecurity direction must not require or authorise the destruction
24 of any biosecurity matter or other thing unless—
- 25 (a) it is, or the authorised person reasonably suspects it is,
26 prohibited biosecurity matter; or

- 1 (b) it is, or the authorised person reasonably suspects it is, a carrier
2 of prohibited biosecurity matter; or
- 3 (c) it is, or the authorised person reasonably suspects it is, a declared
4 pest; or
- 5 (d) both of the following apply:
- 6 (i) it is, or the authorised person reasonably suspects it is,
7 infected with, infested with or carrying biosecurity matter
8 that poses a biosecurity risk;
- 9 (ii) there is no other reasonably practicable treatment measure
10 that could eliminate or minimise the biosecurity risk posed
11 by the biosecurity matter; or
- 12 (e) the destruction is expressly authorised or required by—
- 13 (i) an emergency declaration; or
- 14 (ii) a control declaration.

15 **153 Biosecurity directions—nature conservation and heritage**
16 **matters**

- 17 (1) A biosecurity direction must not require the destruction of any of the
18 following:
- 19 (a) a native animal, native fish or native plant;
- 20 (b) a natural or constructed structure or feature in a reserve;
- 21 (c) infrastructure in a reserve;
- 22 (d) a site or object of historical, archaeological, palaeontological or
23 geological interest in a reserve;
- 24 (e) a heritage place or object.
- 25 (2) A failure to comply with this section does not affect the validity of a
26 biosecurity direction.

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

3 (a) an emergency declaration; or

4 (b) a control declaration.

5 **154 Biosecurity directions—recovery of costs**

6 An authorised person may recover from a person to whom a
7 biosecurity direction is given, the reasonable costs of any inspection,
8 test or assessment made in preparing the biosecurity direction.

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

11 **155 Biosecurity directions—authorising actions and**
12 **recovering costs**

13 (1) If a person (the *liable person*) fails to comply with a biosecurity
14 direction, the director-general may authorise a person to—

15 (a) enter premises other than residential premises; and

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

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

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

24 (3) Any action taken under this section for failure to comply with a
25 biosecurity direction is in addition to the taking of a proceeding for
26 an offence of failing to comply with a biosecurity direction under
27 section 156.

- 1 **156 Offences—fail to comply with biosecurity direction**
- 2 (1) A person must comply with a biosecurity direction.
- 3 Maximum penalty: 50 penalty units.
- 4 (2) A person commits an offence if the person intentionally or
- 5 negligently fails to comply with a biosecurity direction.
- 6 Maximum penalty: 1 000 penalty units.
- 7 (3) An offence against subsection (1) is a strict liability offence.
- 8 (4) It is a defence to a prosecution for an offence against this section if
- 9 the defendant proves they had a reasonable excuse for failing to
- 10 comply with the direction.
- 11 *Note* The defendant has a legal burden in relation to the matters mentioned in
- 12 s (4) (see [Criminal Code](#), s 59).
- 13 **157 Biosecurity directions—exercise of functions in**
- 14 **emergencies**
- 15 (1) A provision of this part that provides for an authorised person to
- 16 exercise a function in an emergency provides for the authorised
- 17 person to exercise that function if—
- 18 (a) the authorised person is required or authorised to exercise the
- 19 function under an emergency declaration; or
- 20 (b) the authorised person otherwise reasonably believes it is
- 21 necessary to exercise the function because—
- 22 (i) a biosecurity emergency has happened, is happening or is
- 23 likely to happen; or
- 24 (ii) the authorised person reasonably suspects a biosecurity
- 25 emergency has happened, is happening or is likely to
- 26 happen.

- 1 (2) A function under this part is taken to have been exercised in an
2 emergency if it is exercised by an authorised person in the
3 circumstances mentioned in subsection (1).
- 4 (3) The fact that this part provides for an authorised person to exercise
5 certain functions only in an emergency does not prevent an authorised
6 person from exercising any other function under this part in an
7 emergency.

- 1 **Part 11** **Biosecurity undertakings**
- 2 **158 Biosecurity undertakings**
- 3 (1) The director-general may accept a written undertaking (a *biosecurity*
4 *undertaking*) given by a person if—
- 5 (a) the person has failed to comply with this Act; or
- 6 (b) the director-general suspects that the person has failed to comply
7 or is likely to fail to comply with this Act.
- 8 (2) The giving of an undertaking by a person does not constitute an
9 admission of guilt in relation to the matters to which the undertaking
10 relates.
- 11 **159 Biosecurity undertakings—contents**
- 12 A biosecurity undertaking must state—
- 13 (a) details of the person’s failure to comply with this Act, or
14 suspected or likely failure to comply with this Act; and
- 15 (b) the measures that the person agrees to implement to remedy or
16 prevent the failure, or suspected or likely failure; and
- 17 (c) when the measures must be implemented.
- 18 **160 Biosecurity undertakings—when enforceable**
- 19 A biosecurity undertaking becomes enforceable when the person
20 giving the undertaking and the director-general agree, in writing, to
21 the terms of the undertaking.
- 22 **161 Biosecurity undertakings—amendment**
- 23 (1) A biosecurity undertaking may only be amended if both the person
24 who gave the undertaking and the director-general agree, in writing,
25 to the amendment.

- 1 (2) A biosecurity undertaking must not be amended to provide for a
2 different failure to comply, or suspected or likely failure to comply,
3 with this Act.

4 **162 Biosecurity undertakings—ending**

5 A biosecurity undertaking ends if—

- 6 (a) the director-general—
- 7 (i) is satisfied that the undertaking is no longer necessary or
8 desirable to ensure that the person complies with this Act;
9 and
- 10 (ii) gives written notice to the person who gave the
11 undertaking; or
- 12 (b) both the person who gave the undertaking and the
13 director-general agree in writing.

14 **163 Biosecurity undertakings—authorising actions and**
15 **recovering costs**

- 16 (1) If a person (the *liable person*) fails to comply with a biosecurity
17 undertaking, the director-general may authorise a person to—
- 18 (a) enter premises other than residential premises; and
- 19 (b) take any action in relation to the premises, or anything at the
20 premises, that the liable person is required by the undertaking to
21 take or that is otherwise necessary to remedy the failure.
- 22 (2) The director-general may recover from the liable person the
23 reasonable costs of taking action under this section.

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

- 1 (3) Any action taken under this section for failure to comply with a
2 biosecurity undertaking is in addition to the taking of a proceeding
3 for an offence of failing to comply with a biosecurity undertaking
4 under section 166.

5 **164 Biosecurity undertakings—orders requiring compliance**

- 6 (1) The director-general may apply to the Magistrates Court for an order
7 under subsection (2) if the director-general believes on reasonable
8 grounds that—
9 (a) a biosecurity undertaking is enforceable against a person; and
10 (b) the person has failed to comply with the undertaking.
- 11 (2) If the Magistrates Court is satisfied that the person has failed to
12 comply with the undertaking, the court may make 1 or more of the
13 following orders:
14 (a) an order directing the person to comply with the undertaking;
15 (b) an order discharging or amending the undertaking;
16 (c) an order directing the person to pay to the Territory—
17 (i) the costs of the proceeding; and
18 (ii) the reasonable costs of the director-general in monitoring
19 compliance with the biosecurity undertaking in the future;
20 (d) any other order that the court considers appropriate.
- 21 (3) The making of an order under this section does not affect the liability
22 of a person for an offence.

23 **165 Biosecurity undertakings—effect on other proceedings**

- 24 A proceeding may not be brought against a person for an offence if—
25 (a) the conduct constituting the offence is the subject of a
26 biosecurity undertaking; and

1 (b) the undertaking is in force; and

2 (c) the person has not failed to comply with the undertaking.

3 **166 Offences—fail to comply with biosecurity undertaking**

4 (1) A person must comply with a biosecurity undertaking that is
5 enforceable against the person.

6 Maximum penalty: 50 penalty units.

7 (2) A person commits an offence if—

8 (a) a biosecurity undertaking is enforceable against the person; and

9 (b) the person intentionally or negligently fails to comply with the
10 undertaking.

11 Maximum penalty: 1 000 penalty units.

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

1 **Part 12 Authorised people**

2 **Division 12.1 General**

3 **167 Definitions—pt 12**

4 In this part:

5 *connected*—a thing is *connected* with an offence if—

- 6 (a) the offence has been committed in relation to it; or
7 (b) it will provide evidence of the commission of the offence; or
8 (c) it was used, is being used, or is intended to be used, to commit
9 the offence.

10 *occupier*, of premises, includes—

- 11 (a) a person believed on reasonable grounds to be an occupier of the
12 premises; and
13 (b) a person apparently in charge of the premises.

14 *offence* includes an offence that there are reasonable grounds for
15 believing has been, is being, or will be, committed.

16 *warrant* means a warrant issued under division 12.3 (Search
17 warrants).

18 **168 Authorised people**

- 19 (1) The director-general may appoint a person as an authorised person
20 for this Act.

21 *Note* For laws about appointments, see the [Legislation Act](#), pt 19.3.

- 22 (2) Also, a police officer is an authorised person for this Act.

1 **169 Identity cards**

2 (1) The director-general must give each authorised person (other than a
3 police officer) an identity card that states the person's name and
4 appointment as an authorised person, and shows—

5 (a) a recent photograph of the person; and

6 (b) the date of issue of the card; and

7 (c) the date of expiry of the card; and

8 (d) anything else prescribed by regulation.

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

10 (a) stops being an authorised person (other than a police officer);
11 and

12 (b) does not return the person's identity card to the director-general
13 as soon as practicable (but within 7 days) after the day the
14 person stops being an authorised person.

15 Maximum penalty: 5 penalty units.

16 (3) Subsection (2) does not apply to a person if the person's identity card
17 is—

18 (a) lost or stolen; or

19 (b) destroyed by someone else.

20 *Note* The defendant has an evidential burden in relation to the matters
21 mentioned in s (3) (see [Criminal Code](#), s 58).

22 (4) An offence against this section is a strict liability offence.

23 **170 Use of assistants**

24 (1) An authorised person exercising a function under this Act may
25 exercise the function with the assistance of any other person the
26 authorised person considers necessary in the circumstances.

- 1 (2) A person assisting an authorised person may—
2 (a) accompany the authorised person onto any premises that the
3 authorised person is lawfully allowed to enter under this Act;
4 and
5 (b) take all reasonable steps to assist the authorised person in the
6 exercise of the authorised person’s functions under this Act.

7 **171 Use of animals**

- 8 (1) An authorised person may, if the authorised person considers it
9 necessary in the circumstances, use an animal to assist the authorised
10 person to detect the presence of, or manage, biosecurity matter under
11 this Act.
12 (2) An authorised person may, in the exercise of their functions as an
13 authorised person, bring an animal onto any premises that the
14 authorised person is lawfully allowed to enter under this Act.
15 (3) An authorised person who exercises a function in the company of, or
16 using, an animal must take all reasonable steps to ensure that the
17 animal—
18 (a) is under the control of the authorised person or a person assisting
19 the authorised person; and
20 (b) does not unnecessarily interact with anyone other than the
21 authorised person or a person assisting the authorised person.

22 **172 Authorised person must show identity card on exercising**
23 **power**

- 24 (1) If an authorised person (other than a police officer) exercises a power
25 under this Act (other than a power under section 179) that affects an
26 individual, the authorised person must first show the authorised
27 person’s identity card to the individual; or

- 1 (2) If an authorised person (other than a police officer) exercises a power
2 under this Act (other than a power under section 179) that affects a
3 person, other than an individual, the authorised person must first
4 show the authorised person's identity card to an individual the
5 authorised person believes on reasonable grounds is an employee,
6 officer or agent of the person.
- 7 (3) If the authorised person is not exercising the power in person, the
8 authorised person must provide the person with other evidence that
9 they are an authorised person.

10 **Division 12.2 Powers of authorised people**

11 **173 Power to enter premises**

- 12 (1) For this Act, an authorised person may—
- 13 (a) at any reasonable time, enter premises if the authorised person
14 suspects on reasonable grounds that there is a biosecurity risk at
15 the premises; or
- 16 (b) at any reasonable time, enter premises to investigate, monitor or
17 enforce compliance with this Act if the authorised person
18 suspects on reasonable grounds that the premises are occupied
19 by any of the following:
- 20 (i) a permit-holder;
- 21 (ii) a registered person;
- 22 (iii) a biosecurity certifier;
- 23 (iv) a certifier authority;
- 24 (v) a biosecurity auditor;
- 25 (vi) an auditor authority;
- 26 (vii) a person who is subject to a biosecurity direction;

- 1 (viii) a person who is subject to an enforceable biosecurity
2 undertaking; or
- 3 (c) at any reasonable time, enter premises with a biosecurity auditor
4 to facilitate the conduct of a biosecurity audit; or
- 5 (d) at any time, enter premises if the director-general has given the
6 occupier of the premises notice under section 48 (3)
7 (Emergency declarations—authorising actions and recovering
8 costs); or
- 9 (e) at any reasonable time, enter premises that the public is entitled
10 to use or that are open to the public (whether or not on payment
11 of money); or
- 12 (f) at any time, enter premises with the occupier’s consent; or
- 13 (g) at any time, enter premises if the authorised person believes on
14 reasonable grounds that the risk is so serious and urgent that
15 immediate entry to the premises without the authority of a search
16 warrant is necessary; or
- 17 (h) if a vehicle is stopped under section 187 (Direction to stop
18 vehicle)—enter the vehicle; or
- 19 (i) enter premises in accordance with a search warrant.
- 20 (2) However, subsection (1) (a), (1) (b), (1) (c), (1) (d) or (1) (e) does not
21 authorise entry into a part of the premises that is being used only for
22 residential purposes.
- 23 (3) If an authorised person wants to ask for consent to enter a building or
24 other structure on premises, the authorised person may, without the
25 occupier’s consent, enter any land that forms part of the premises to
26 ask for the consent.
- 27 (4) To remove any doubt, an authorised person may enter premises under
28 subsection (1) without payment of an entry fee or other charge.

1 (5) An authorised person may enter premises under subsection (1) (a),
2 (1) (b), (1) (c), (1) (d), (1) (g), (1) (h) or (1) (i) using any necessary
3 and reasonable force.

4 (6) Entry into premises under this section may include entry on foot, by
5 vehicle or other means.

6 **174 Production of identity card**

7 (1) An authorised person and any other person who is accompanying the
8 authorised person may not remain at premises entered under this part
9 if the authorised person does not produce when asked by the
10 occupier—

11 (a) for an authorised person who is not a police officer—their
12 identity card; or

13 (b) for a police officer—evidence that they are a police officer.

14 (2) If an authorised person does not comply with a request made by an
15 occupier under subsection (1), the authorised person and any other
16 person accompanying the authorised person (other than a police
17 officer) must immediately leave the premises.

18 **175 Consent to entry**

19 (1) When seeking the consent of an occupier to enter premises under
20 section 173 (1) (f), an authorised person must—

21 (a) produce either—

22 (i) for an authorised person who is not a police officer—

23 (A) their identity card; or

24 (B) evidence that they are an authorised person; or

25 (ii) for a police officer—evidence that they are a police officer;
26 and

- 1 (b) tell the occupier—
- 2 (i) the purpose of the entry; and
- 3 (ii) the reason for, and identity of, any other person
- 4 accompanying the authorised person; and
- 5 (iii) that anything found and seized under this part may be used
- 6 in evidence in court; and
- 7 (iv) that consent may be refused.
- 8 (2) If the occupier consents, the authorised person must ask the occupier
- 9 to give their consent in writing (an *acknowledgment of consent*)—
- 10 (a) that the occupier was told—
- 11 (i) the purpose of the entry; and
- 12 (ii) the reason for, and identity of, any other person
- 13 accompanying the authorised person; and
- 14 (iii) that anything found and seized under this part may be used
- 15 in evidence in court; and
- 16 (iv) that consent may be refused; and
- 17 (b) that the occupier consents to the entry; and
- 18 (c) stating the time and date when consent was given.
- 19 (3) If the occupier gives an acknowledgment of consent, the authorised
- 20 person must be reasonably satisfied that the occupier has a copy of
- 21 the acknowledgment.
- 22 (4) A court must find that the occupier did not consent to entry to the
- 23 premises by the authorised person under this part if—
- 24 (a) the question whether the occupier consented to the entry arises
- 25 in a proceeding in the court; and

1 (b) an acknowledgment of consent for the entry is not produced in
2 evidence; and

3 (c) it is not proved that the occupier consented to the entry.

4 **176 General powers on entry to premises**

5 (1) An authorised person who enters premises under this part may, for
6 this Act, do 1 or more of the following in relation to the premises or
7 anything at the premises:

8 (a) inspect anything, including using reasonable force to break open
9 or otherwise access a container, vehicle or other thing being
10 used, or suspected of being used, to hold or contain another
11 thing;

12 (b) inspect and copy, or take extracts from, documents relating to a
13 failure to comply, or likely failure to comply, with this Act;

14 (c) take images or other recordings;

15 (d) move any biosecurity matter or other thing;

16 (e) isolate, confine or detain any biosecurity matter or other thing;

17 (f) carry out a treatment measure in relation to any biosecurity
18 matter, premises or other thing;

19 (g) erect or repair any fencing, gate or any other method of
20 enclosure, or carry out any other security or containment
21 measure in relation to the premises or any biosecurity matter or
22 other thing;

23 (h) erect signs;

24 (i) take and remove samples of anything;

25 (j) carry out any tests that the authorised person considers
26 necessary;

- 1 (k) mark, brand, tag, or attach a device or other identifier to any
2 biosecurity matter or carrier to identify or trace the biosecurity
3 matter or carrier;
- 4 (l) install or use a device at the premises to detect or monitor the
5 presence of any biosecurity matter or other thing;
- 6 (m) install or use a device or bait at the premises to capture, kill or
7 otherwise control any biosecurity matter or other thing;
- 8 (n) destroy, dispose of or eradicate anything, in accordance with this
9 Act;
- 10 (o) do anything else prescribed by regulation.
- 11 (2) A person commits an offence if the person interferes with a sign,
12 device, or any other equipment placed by an authorised person under
13 subsection (1).
- 14 Maximum penalty: 50 penalty units.
- 15 (3) A person commits an offence if the person intentionally or
16 negligently interferes with a sign, device, or any other equipment
17 placed by an authorised person under subsection (1).
- 18 Maximum penalty: 1 000 penalty units.
- 19 (4) An offence against subsection (2) is a strict liability offence.
- 20 (5) It is a defence to a prosecution for an offence against subsection (2)
21 if the defendant proves that they had a reasonable excuse for
22 interfering with the sign, device or other equipment.
- 23 *Note* The defendant has a legal burden in relation to the matters mentioned in
24 s (5) (see [Criminal Code](#), s 59).

1 **177 Power to require information, documents, etc**

2 (1) An authorised person who enters premises under this part may, for
3 this Act, require the occupier, or anyone else at the premises, to do
4 1 or more of the following in relation to the premises or anything at
5 the premises:

6 (a) to give information, answer questions or produce documents or
7 anything else (whether the information, document or other thing
8 is at the premises or elsewhere) that the occupier or person at the
9 premises has, or has access to, that are reasonably necessary to
10 exercise a function under this Act;

11 (b) to give the authorised person copies of documents produced
12 under paragraph (a) that are reasonably necessary to exercise a
13 function under this Act;

14 (c) to give the authorised person reasonable help to exercise a
15 function under this part.

16 **Examples—require the occupier to give reasonable help**

- 17 1 require the occupier to confine or move an animal in their possession
18 2 require the occupier to provide facilities, including yards and crushes,
19 that are required to inspect, treat or take samples from any biosecurity
20 matter, carrier, potential carrier or other thing
21 3 require the occupier to restrain an animal

22 (2) A person must take reasonable steps to comply with a requirement
23 made of the person under subsection (1).

24 Maximum penalty: 50 penalty units.

25 (3) A person commits an offence if the person fails to take reasonable
26 steps to comply with a requirement made of the person under
27 subsection (1).

28 Maximum penalty: 1 000 penalty units.

29 (4) An offence against subsection (2) is a strict liability offence.

1 **178 Recovery of costs for action taken**

2 If action is taken by an authorised person against a person (the *liable*
3 *person*) under section 176, the director-general may recover from the
4 liable person the reasonable costs of taking the action if, in the
5 opinion of the director-general, it is reasonable to do so considering
6 the following:

- 7 (a) any biosecurity duty or obligation of the liable person under this
8 Act;
- 9 (b) any failure to comply or likely failure to comply with this Act
10 by the liable person;
- 11 (c) any other matter the director-general considers relevant in the
12 circumstances.

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

15 **179 Power to obtain, inspect and copy records**

16 (1) An authorised person may, by written notice, require a person to give
17 the authorised person information, or produce documents or anything
18 else, that the person has, or has access to, that are reasonably required
19 by the authorised person for this Act.

20 (2) A person must take reasonable steps to comply with a requirement
21 made of the person under this section.

22 Maximum penalty: 50 penalty units.

23 (3) A person commits an offence if the person fails to take reasonable
24 steps to comply with a requirement made of the person under this
25 section.

26 Maximum penalty: 1 000 penalty units.

27 (4) An offence against subsection (2) is a strict liability offence.

1 **180 Power to require answers to questions**

2 (1) An authorised person may require a person to answer questions in
3 relation to a matter under this Act if the authorised person reasonably
4 believes that the person may have knowledge about the matter.

5 (2) An authorised person may, by written notice, require a person to
6 attend the place stated in the notice, at the time stated in the notice, in
7 order to answer questions about a matter that the authorised person
8 reasonably believes the person may have knowledge.

9 (3) The place and time are to be—

10 (a) nominated by the person; or

11 (b) if the nominated place and time are not reasonable in the
12 circumstances, or no place and time are nominated—a place and
13 time nominated by the authorised person that is reasonable in
14 the circumstances.

15 (4) A person who is the subject of a requirement made under this section
16 must comply with the requirement.

17 Maximum penalty: 50 penalty units.

18 (5) A person who is the subject of a requirement made under this section
19 commits an offence if the person fails to comply with the requirement.

20 Maximum penalty: 1 000 penalty units.

21 (6) An offence against subsection (4) is a strict liability offence.

22 **181 Evidence may be recorded**

23 (1) An authorised person may record information given orally under this
24 division if, before the information is given, the authorised person has
25 informed the person giving the information that it is to be recorded.

26 (2) A record may be made using any method that the authorised person
27 considers reasonable in the circumstances.

- 1 (3) If an authorised person makes a record, they must give a copy of the
2 record to the person who provided the information as soon as
3 practicable after making the record.

4 **182 Abrogation of privilege against self-incrimination**

- 5 (1) A person is not excused from answering a question or providing
6 information or a document under this part on the ground that the
7 answer to the question, or the information or document, may tend to
8 incriminate the person or expose the person to a penalty.
- 9 (2) However, any information, document or thing obtained, directly or
10 indirectly, because of the giving of the answer or the production of
11 the document is not admissible in evidence against the person in a
12 civil or criminal proceeding, other than a proceeding for an offence
13 arising out of the false or misleading nature of the answer,
14 information or document.

15 **183 Warning to be given**

- 16 (1) Before requiring a person to comply with a requirement under
17 section 177, section 179 or section 180 (1), an authorised person
18 must warn the person—
- 19 (a) that failure to comply constitutes an offence; and
20 (b) about the effect of section 182.
- 21 (2) It is not an offence for an individual to refuse to answer a question
22 put by an authorised person or provide information or a document to
23 an authorised person under section 177, section 179 or
24 section 180 (1) on the ground that the question, information or
25 document might tend to incriminate the individual, unless the
26 individual was first given the warning mentioned in
27 subsection (1) (b).
- 28 (3) Nothing in this section prevents an authorised person from obtaining
29 and using evidence given to the authorised person voluntarily by any
30 person.

- 1 **184 Power to seize things**
- 2 (1) An authorised person who enters premises under this part with the
3 occupier’s consent may seize anything at the premises if seizure of
4 the thing is consistent with the purpose of the entry told to the
5 occupier when seeking the occupier’s consent.
- 6 (2) An authorised person who enters premises under a warrant under this
7 part may seize anything at the premises that the authorised person is
8 authorised to seize under the warrant.
- 9 (3) An authorised person who enters premises under this part (whether
10 with the occupier’s consent, under a warrant or otherwise) may
11 seize—
- 12 (a) anything at the premises if satisfied on reasonable grounds
13 that—
- 14 (i) the thing is connected with an offence against this Act; and
15 (ii) the seizure is necessary to prevent the thing from being—
- 16 (A) concealed, lost or destroyed; or
17 (B) used to commit, continue or repeat the offence; or
- 18 (b) any biosecurity matter or other thing if the authorised person
19 reasonably believes that seizure of the biosecurity matter or
20 other thing is necessary to manage a biosecurity risk posed by
21 the biosecurity matter or thing.
- 22 (4) Having seized a thing, an authorised person may—
- 23 (a) remove the thing from the premises where it was seized (the
24 *place of seizure*) to another place; or
25 (b) leave the thing at the place of seizure but restrict access to it.

- 1 (5) A person commits an offence if—
2 (a) the person interferes with a seized thing, or anything containing
3 a seized thing, to which access has been restricted under
4 subsection (4); and
5 (b) the person does not have an authorised person’s approval to
6 interfere with the thing.
7 Maximum penalty: 50 penalty units.
- 8 (6) A person commits an offence if the person—
9 (a) intentionally or negligently interferes with a seized thing, or
10 anything containing a seized thing, to which access has been
11 restricted under subsection (4); and
12 (b) does not have an authorised person’s approval to interfere with
13 the thing.
14 Maximum penalty: 1 000 penalty units.
- 15 (7) An offence against subsection (5) is a strict liability offence.

16 **185 Direction to give name and address**

- 17 (1) This section applies if an authorised person believes on reasonable
18 grounds that a person—
19 (a) has committed, is committing or is about to commit an offence
20 against this Act; or
21 (b) may be able to assist in the investigation of an offence against
22 this Act.

1 (2) The authorised person may direct the person to immediately give the
2 authorised person any of the following:

- 3 (a) the person's full name;
4 (b) the person's home address;
5 (c) evidence of the person's full name or home address.

6 *Note 1* The authorised person must first show the person their identity card
7 (see s 174).

8 *Note 2* It is an offence to make a false or misleading statement or give false or
9 misleading information (see [Criminal Code](#), pt 3.4).

10 (3) If an authorised person gives a direction to a person, the authorised
11 person must tell the person that it is an offence if the person fails to
12 comply with the direction.

13 (4) If an authorised person gives a direction to a person, the authorised
14 person must give the direction in a language, or in a way of
15 communicating, that the authorised person believes on reasonable
16 grounds the person is likely to understand.

17 **186 Offences—fail to comply with direction to give name and**
18 **address**

19 (1) A person must comply with a direction under section 185.

20 Maximum penalty: 50 penalty units.

21 (2) A person commits an offence if the person fails to comply with a
22 direction under section 185.

23 Maximum penalty: 1 000 penalty units.

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

- 1 (4) This section does not apply to a person if the authorised person,
2 before giving the direction, did not—
- 3 (a) for an authorised person (other than a police officer)—produce
4 the authorised person’s identity card for inspection by the
5 person; or
- 6 (b) tell the person that failure to comply with the direction is an
7 offence.
- 8 (5) Also, for a direction under section 185 (2) (c), this section does not
9 apply if the person produces the evidence not more than 24 hours after
10 the day the direction was made.
- 11 *Note* The defendant has an evidential burden in relation to the matters
12 mentioned in s (4) and s (5) (see [Criminal Code](#), s 58).

13 **187 Direction to stop vehicle**

- 14 (1) This section applies if an authorised person believes on reasonable
15 grounds that a vehicle, or something in a vehicle, is—
- 16 (a) associated with a biosecurity risk; or
17 (b) connected with an offence against this Act.
- 18 (2) To exercise a function under this part, an authorised person may direct
19 the driver of a vehicle to stop the vehicle—
- 20 (a) without delay; or
21 (b) at the nearest place where the vehicle can be safely stopped as
22 indicated by the authorised person.
- 23 (3) A direction may be given to a driver orally or by means of a sign or
24 signal (electronic or otherwise) or in any other way.
- 25 (4) A direction to a driver ceases to be operative to the extent that an
26 authorised person—
- 27 (a) gives the driver or other person a later inconsistent direction; or
28 (b) indicates to the driver that the direction is no longer operative.

- 1 (5) An authorised person may direct a vehicle to be stopped only for the
2 amount of time necessary for the authorised person to exercise the
3 function.

4 *Note* An authorised person may enter and search a stopped vehicle
5 (see s 173 (1) (h)).

6 **188 Offences—fail to comply with direction to stop vehicle**

- 7 (1) A person must comply with a direction under section 187.

8 Maximum penalty: 50 penalty units.

- 9 (2) A person commits an offence if the person fails to comply with a
10 direction under section 187.

11 Maximum penalty: 1 000 penalty units.

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

- 13 (4) This section does not apply if the authorised person (other than a
14 police officer) did not, as soon as practicable after giving the
15 direction, produce the authorised person's identity card for inspection
16 by the person.

17 *Note* The defendant has an evidential burden in relation to the matters
18 mentioned in s (4) (see [Criminal Code](#), s 58).

- 19 (5) It is a defence to a prosecution for an offence against subsection (1)
20 if the defendant proves that they had a reasonable excuse for failing
21 to comply with the direction.

22 *Note* The defendant has a legal burden in relation to the matters mentioned in
23 s (5) (see [Criminal Code](#), s 59).

24 **Division 12.3 Search warrants**

25 **189 Warrants generally**

- 26 (1) An authorised person may apply to a magistrate for a warrant to enter
27 premises.

- 1 (2) The application must—
2 (a) be sworn; and
3 (b) state the grounds on which the warrant is sought.
- 4 (3) The magistrate may refuse to consider the application until the
5 authorised person gives the magistrate all the information the
6 magistrate requires about the application in the way the magistrate
7 requires.
- 8 (4) The magistrate may issue a warrant only if satisfied there are
9 reasonable grounds for suspecting—
10 (a) there is a particular thing or activity connected with an offence
11 against this Act; and
12 (b) the thing or activity—
13 (i) is, or is being engaged in, at the premises; or
14 (ii) may be, or may be engaged in, at the premises within the
15 next 14 days.
- 16 (5) The warrant must state—
17 (a) that an authorised person may, with any necessary assistance
18 and force, enter the premises and exercise the authorised
19 person’s powers under this part; and
20 (b) the offence for which the warrant is issued; and
21 (c) the things that may be seized under the warrant; and
22 (d) the hours when the premises may be entered; and
23 (e) the date, within 14 days after the day of the warrant’s issue,
24 when the warrant ends.

- 1 **190 Warrants—application other than in person**
- 2 (1) An authorised person may apply for a warrant by phone, email, letter
- 3 or other form of communication if the authorised person considers it
- 4 necessary because of—
- 5 (a) urgent circumstances; or
- 6 (b) other special circumstances.
- 7 (2) Before applying for the warrant, the authorised person must prepare
- 8 an application stating the grounds on which the warrant is sought.
- 9 (3) The authorised person may apply for the warrant before the
- 10 application is sworn.
- 11 (4) After issuing the warrant, the magistrate must immediately give a
- 12 written copy to the authorised person if it is practicable to do so.
- 13 (5) If it is not practicable to give a written copy of the warrant to the
- 14 authorised person—
- 15 (a) the magistrate must tell the authorised person—
- 16 (i) what the terms of the warrant are; and
- 17 (ii) the date and time the warrant was issued; and
- 18 (b) the authorised person must complete a form of warrant (the
- 19 **warrant form**) and write on it—
- 20 (i) the magistrate’s name; and
- 21 (ii) the date and time the magistrate issued the warrant; and
- 22 (iii) the terms of the warrant.
- 23 (6) The written copy of the warrant, or the warrant form properly
- 24 completed by the authorised person, authorises the entry and the
- 25 exercise of the authorised person’s powers under this part.

- 1 (7) The authorised person must, at the first reasonable opportunity, send
2 to the magistrate—
- 3 (a) the sworn application; and
- 4 (b) if the authorised person completed a warrant form—the
5 completed warrant form.
- 6 (8) On receiving the documents mentioned in subsection (7), the
7 magistrate must attach them to the warrant.
- 8 (9) A court must find that a power exercised by an authorised person was
9 not authorised by a warrant under this section if—
- 10 (a) a question arises in a proceeding before the court whether the
11 exercise of power was authorised by a warrant; and
- 12 (b) the warrant is not produced in evidence; and
- 13 (c) it is not proved that the exercise of power was authorised by a
14 warrant under this section.

15 **191 Search warrants—announcement before entry**

- 16 (1) An authorised person must, before anyone enters premises under a
17 search warrant—
- 18 (a) announce that the authorised person is authorised to enter the
19 premises; and
- 20 (b) give anyone at the premises an opportunity to allow entry to the
21 premises; and
- 22 (c) if the occupier of the premises, or someone else who apparently
23 represents the occupier, is present at the premises—identify
24 themselves to the person.

- 1 (2) The authorised person is not required to comply with subsection (1)
2 if the authorised person believes on reasonable grounds that
3 immediate entry to the premises is required to ensure—
4 (a) the safety of anyone (including the authorised person or any
5 person assisting an authorised person); or
6 (b) that the effective execution of the warrant is not frustrated.

7 **192 Details of search warrant to be given to occupier etc**

8 If the occupier of the premises, or someone else who apparently
9 represents the occupier, is present at the premises while a search
10 warrant is being executed, the authorised person or a person assisting
11 must make available to the person—

- 12 (a) a copy of—
13 (i) the warrant; or
14 (ii) if section 190 (5) applies—the completed warrant form;
15 and
16 (b) a document setting out the rights and obligations of the person.

17 **193 Occupier entitled to be present during search etc**

- 18 (1) If the occupier of the premises, or someone else who apparently
19 represents the occupier, is present at the premises while a search
20 warrant is being executed, the person is entitled to observe the search
21 being conducted.
22 (2) However, the person is not entitled to observe the search if—
23 (a) to do so would impede the search; or
24 (b) the person is under arrest, and allowing the person to observe
25 the search being conducted would interfere with the objectives
26 of the search.

- 1 (3) This section does not prevent 2 or more areas of the premises being
2 searched at the same time.

3 **Division 12.4 Return and forfeiture of things seized**

4 **194 Receipt for things seized**

- 5 (1) As soon as practicable after a thing is seized by an authorised person
6 under this part, the authorised person must give a receipt for it to the
7 person from whom it was seized.
- 8 (2) If, for any reason, it is not practicable to comply with subsection (1),
9 the authorised person must leave the receipt, secured conspicuously
10 at the place of seizure under section 184 (Power to seize things).
- 11 (3) A receipt under this section must include the following:
- 12 (a) a description of the thing seized;
- 13 (b) an explanation of why the thing was seized;
- 14 (c) the authorised person's name, and how to contact the authorised
15 person;
- 16 (d) if the thing is moved from the premises where it is seized—
17 where the thing is to be taken.

18 **195 Moving things to another place for inspection, 19 processing or testing under search warrant**

- 20 (1) A thing found at premises entered under a search warrant may be
21 moved to another place for inspection, processing or testing to decide
22 whether it may be seized under the warrant if—
- 23 (a) both of the following apply:
- 24 (i) there are reasonable grounds for believing that the thing is
25 or contains something to which the warrant relates;

- 1 (ii) it is significantly more practicable to do so considering the
2 timeliness and cost of inspection, processing or testing the
3 thing at another place and the availability of expert
4 assistance; or
- 5 (b) the occupier of the premises agrees in writing.
- 6 (2) The thing may be moved to another place for inspection, processing
7 or testing for not longer than 72 hours.
- 8 (3) An authorised person may apply to a magistrate for an extension of
9 time if the authorised person believes on reasonable grounds that the
10 thing cannot be inspected, processed or tested within 72 hours.
- 11 (4) The authorised person must give notice of the application to the
12 occupier of the premises, and the occupier is entitled to be heard on
13 the application.
- 14 (5) If a thing is moved to another place under this section, the authorised
15 person must, if practicable—
- 16 (a) tell the occupier of the premises the address of the place where,
17 and time when, the inspection, processing or testing will be
18 carried out; and
- 19 (b) allow the occupier or the occupier's representative to be present
20 during the inspection, processing or testing.
- 21 (6) The provisions of this part relating to the issue of search warrants
22 apply, with any necessary changes, to the giving of an extension
23 under this section.

24 **196 Access to things seized**

25 A person who would, apart from the seizure, be entitled to inspect a
26 thing seized under this part may—

- 27 (a) inspect the thing; and
- 28 (b) take images or other recordings of the thing; and

- 1 (c) if the thing is a document—take extracts from, or make copies
2 of, the thing.

3 **197 Return of things seized**

4 A thing seized under this part must be returned to its owner, or
5 reasonable compensation must be paid to the owner by the Territory
6 for the loss of the thing, if—

- 7 (a) an infringement notice for an offence connected with the thing
8 is not served on the owner within 1 year after the day of the
9 seizure and either—
- 10 (i) a prosecution for an offence connected with the thing is not
11 begun within the 1-year period; or
- 12 (ii) a prosecution for an offence connected with the thing is
13 begun within the 1-year period but the court does not find
14 the offence proved; or
- 15 (b) an infringement notice for an offence connected with the thing
16 is served on the owner within 1 year after the day of the seizure,
17 the infringement notice is withdrawn and—
- 18 (i) a prosecution for an offence connected with the thing is not
19 begun within the 1-year period; or
- 20 (ii) a prosecution for an offence connected with the thing is
21 begun within the 1-year period but the court does not find
22 the offence proved; or
- 23 (c) an infringement notice for an offence connected with the thing
24 is served on the owner within 1 year after the day of the seizure,
25 liability for the offence is disputed in accordance with the
26 *Magistrates Court Act 1930*, section 132 (Disputing liability for
27 infringement notice offence) and—
- 28 (i) an information is not laid in the Magistrates Court against
29 the person for the offence within 60 days after the day
30 notice is given under that section; or

1 (ii) the Magistrates Court does not find the offence proved.

2 **198 Forfeiture of things seized**

3 (1) This section applies if—

4 (a) a thing seized under this part is not required to be returned, or
5 reasonable compensation is not required to be paid, under
6 section 197; or

7 (b) the director-general is satisfied that—

8 (i) the owner of a seized thing cannot be found after making
9 reasonable inquiries (given the thing's apparent value); or

10 (ii) a seized thing cannot be returned to its owner after making
11 reasonable efforts (given the thing's apparent value).

12 (2) The thing—

13 (a) is forfeited to the Territory; and

14 (b) may be sold, destroyed or otherwise disposed of as the
15 director-general directs.

16 **Division 12.5 Limits on powers of authorised**
17 **people**

18 **199 Authorised people—treatment of people**

19 (1) An authorised person must not do either of the following unless
20 expressly authorised by an emergency declaration or a biosecurity
21 direction:

22 (a) inspect a person;

23 (b) require a treatment measure to be carried out in relation to a
24 person.

- 1 (2) An authorised person must not require a person—
2 (a) to submit to testing; or
3 (b) to provide a sample of their blood, hair, saliva or any other body
4 part or body fluid.

5 **200 Authorised people—restricting movement of people**

- 6 (1) An authorised person must not prohibit, regulate or control the
7 movement of a person unless expressly authorised by—
8 (a) an emergency declaration; or
9 (b) a biosecurity direction.
10 (2) However, subsection (1) does not prevent an authorised person from
11 doing anything in relation to any biosecurity matter, premises, area,
12 activity or other thing that has an impact on the movement of a person
13 but is not done for the purpose of restricting the movement of the
14 person.

15 **Example**

16 An authorised person constructs a fence on premises to isolate particular animals
17 from other animals. This may have an impact on the movement of a person but is
18 not done for that purpose.

19 **201 Authorised people—destruction of things**

- 20 (1) An authorised person may destroy a thing under this Act if—
21 (a) it is, or the authorised person reasonably suspects it is,
22 prohibited biosecurity matter; or
23 (b) it is, or the authorised person reasonably suspects it is, a carrier
24 of prohibited biosecurity matter; or
25 (c) it is, or the authorised person reasonably suspects it is, a declared
26 pest; or

- 1 (d) both of the following apply:
- 2 (i) it is, or the authorised person reasonably suspects it is,
3 infected with, infested with or carrying biosecurity matter
4 that poses a biosecurity risk;
- 5 (ii) the authorised person is satisfied that there is no reasonably
6 practicable and available—
- 7 (A) treatment measure that could eliminate or minimise
8 the biosecurity risk posed by the biosecurity matter;
9 or
- 10 (B) way to determine or confirm whether the thing is
11 infected with, infested with or carrying the
12 biosecurity matter; or
- 13 (e) the destruction is expressly authorised or required by—
- 14 (i) an emergency declaration; or
- 15 (ii) a control declaration; or
- 16 (iii) a biosecurity direction given in an emergency.
- 17 (2) This section does not apply to the destruction of a thing that has been
18 forfeited to the Territory.

19 **202 Authorised people—notice of proposed destruction**

- 20 (1) An authorised person must not destroy anything in the exercise of a
21 function under this Act unless, before destroying the thing, the
22 authorised person—
- 23 (a) gives written notice of the proposed destruction to the owner or
24 person in charge of the thing; or
- 25 (b) is satisfied that the owner or person in charge of the thing has
26 already been given written notice of the proposed destruction.
- 27 (2) The notice must be given at least 24 hours before the thing is
28 destroyed.

- 1 (3) Subsection (1) does not apply if—
- 2 (a) the destruction of the thing is authorised, or required, to be
- 3 carried out immediately or without notice under—
- 4 (i) an emergency declaration; or
- 5 (ii) a control declaration; or
- 6 (b) there appears to be no-one immediately in control of the thing,
- 7 and the owner or person in charge cannot be found after
- 8 reasonable inquiry; or
- 9 (c) the authorised person reasonably believes that the thing must be
- 10 destroyed without delay in order to manage an immediate and
- 11 significant biosecurity risk posed by the thing, and it is not
- 12 practicable to give notice before the thing is destroyed; or
- 13 (d) in the case of an animal, the authorised person reasonably
- 14 believes that delaying the destruction of the animal will cause
- 15 unreasonable and unjustifiable pain or suffering to the animal;
- 16 or
- 17 (e) the authorised person considers that, in the circumstances, the
- 18 destruction must be carried out without delay or prior notice to
- 19 the owner or person in charge.
- 20 (4) This section does not apply to the destruction of a thing that has been
- 21 forfeited to the Territory.

22 **203 Authorised people—nature conservation and heritage**

23 **matters**

- 24 (1) An authorised person must not, under this Act, destroy any of the
- 25 following:
- 26 (a) a native animal, native fish or native plant;
- 27 (b) a natural or constructed structure or feature in a reserve;
- 28 (c) infrastructure in a reserve;

- 1 (d) a site or object of historical, archaeological, palaeontological or
2 geological interest in a reserve;
- 3 (e) a heritage place or object.
- 4 (2) This section does not apply to the destruction of a thing if the
5 destruction is expressly authorised or required by—
- 6 (a) an emergency declaration; or
7 (b) a control declaration.

8 **Division 12.6 Miscellaneous**

9 **204 Damage etc to be minimised**

- 10 (1) In the exercise, or purported exercise, of a function under this part, an
11 authorised person must take all reasonable steps to ensure that the
12 authorised person, and any person assisting the authorised person,
13 causes as little inconvenience, detriment and damage as is practicable.
- 14 (2) If an authorised person, or a person assisting an authorised person,
15 damages anything in the exercise or purported exercise of a function
16 under this part, the authorised person must give written notice of the
17 particulars of the damage to the person whom the authorised person
18 believes on reasonable grounds is the owner of the thing.
- 19 (3) If the damage happens at premises entered under this part in the
20 absence of the occupier, the notice may be given by leaving it secured
21 in a conspicuous place at the premises.

1 **Part 13 Court proceedings**

2 **Division 13.1 Court proceedings generally**

3 **205 Evidence of analysts**

4 (1) A certificate of an analyst certifying the result of an analysis or
5 examination is admissible in a proceeding and is evidence of—

6 (a) the facts stated in the certificate; and

7 (b) the correctness of the result of the analysis or examination.

8 (2) A certificate of an analyst certifying that, on receipt of a container
9 holding a sample submitted to the analyst under this Act, the container
10 was sealed and the seal securing the container was unbroken, is
11 admissible in a proceeding and is evidence—

12 (a) of the facts stated in the certificate; and

13 (b) that the sample—

14 (i) was the same sample as the one submitted to the analyst
15 under this Act; and

16 (ii) had not been tampered with after sealing.

17 (3) A document purporting to be a certificate under this section is taken
18 to be a certificate under this section unless the contrary is proved.

19 **206 Injunctions to restrain contravention of requirements**

20 (1) This section applies if a person (the *relevant person*) has engaged, is
21 engaging, or proposes to engage, in conduct contravening a
22 requirement under this Act.

23 (2) The director-general or anyone else may apply to the Supreme Court
24 for an injunction.

- 1 (3) On application under subsection (2), the Supreme Court may grant an
2 injunction—
- 3 (a) restraining the relevant person from engaging in the conduct;
4 and
- 5 (b) if satisfied that it is desirable to do so—requiring the relevant
6 person to do anything.
- 7 (4) The Supreme Court may grant an injunction restraining a relevant
8 person from engaging in conduct of a particular kind—
- 9 (a) if satisfied that the person has engaged in conduct of that kind,
10 whether or not it appears to the court that the person intends to
11 engage again, or to continue to engage, in conduct of that kind;
12 or
- 13 (b) if it appears to the court that, if an injunction is not granted, it is
14 likely the person will engage in conduct of that kind, whether or
15 not the person has previously engaged in conduct of that kind
16 and whether or not there is an likely to happen danger of
17 substantial damage to someone else if the person engages in
18 conduct of that kind.
- 19 (5) This section applies whether or not a proceeding for an offence
20 against this Act has begun or is about to begin.

21 **207 Recovery of costs, expenses and compensation after**
22 **offence proved**

- 23 (1) Subsection (2) applies if, after a court convicts a person or finds a
24 person guilty of an offence against this Act, the Territory incurs costs
25 and expenses related to—
- 26 (a) managing a biosecurity risk or biosecurity impact caused by the
27 commission of the offence; or
- 28 (b) making good any resulting biosecurity impact.

- 1 (2) The director-general may recover from the person the amount of the
2 costs and expenses incurred.
- 3 (3) Subsection (4) applies if, after a court convicts a person or finds a
4 person guilty of an offence against this Act, another person
5 (the *injured person*)—
- 6 (a) suffers property loss or damage because of the commission of
7 the offence; or
- 8 (b) incurs costs and expenses in managing the loss or damage
9 (or attempting to do so).
- 10 (4) The injured person may recover from the person the amount of the
11 loss or damage or costs and expenses incurred.

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

14 **Division 13.2 Court orders**

15 **208 Orders—generally**

- 16 (1) If a court convicts a person, or finds a person guilty, of an offence
17 against this Act, the court may make 1 or more orders under this part
18 against the person.
- 19 (2) An order may be made under this part in addition to any penalty that
20 may be imposed, or any other action that may be taken in relation to
21 the offence.
- 22 (3) An order may be made under this part regardless of whether any
23 penalty is imposed, or other action is taken, in relation to the offence.

1 **209 Orders for restoration and prevention**

2 (1) If a court convicts a person, or finds a person guilty, of an offence
3 against this Act, the court may order the person to take the steps stated
4 in the order, within the time stated in the order (or any further time
5 that the court, on application, may allow)—

6 (a) to manage any biosecurity impact caused by the commission of
7 the offence; or

8 (b) to make good any resulting biosecurity impact; or

9 (c) to prevent the continuation or recurrence of the offence.

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

11 (a) is subject to an order under this section; and

12 (b) intentionally fails to comply with the order.

13 Maximum penalty: 1 000 penalty units.

14 **210 Prohibition orders**

15 (1) If a court convicts a person, or finds a person guilty, of an offence
16 against this Act, the court may do 1 or more of the following:

17 (a) order the person not to deal with any stated biosecurity matter
18 or carrier, or not to engage in any stated dealing with stated
19 biosecurity matter or carrier;

20 (b) cancel, suspend or amend any of the following authorisations
21 held by the person:

22 (i) biosecurity registration;

23 (ii) a biosecurity permit;

24 (iii) approval as a biosecurity certifier;

25 (iv) approval as a biosecurity auditor;

- 1 (v) approval as a certifier authority;
2 (vi) approval as an auditor authority;
3 (c) disqualify the person from applying for an authorisation
4 mentioned in paragraph (b);
5 (d) extend any biosecurity undertaking given by the person.
6 (2) The court may fix a period during which the order applies and impose
7 any other requirements the court considers necessary or convenient
8 for enforcement of the order.
9 (3) A person commits an offence if the person—
10 (a) is subject to an order under this section; and
11 (b) intentionally fails to comply with the order.
12 Maximum penalty: 1 000 penalty units.

13 **211 Publication orders**

- 14 (1) If a court convicts a person, or finds a person guilty, of an offence
15 against this Act, the court may order the person to take stated action
16 to publicise 1 or more of the following:
17 (a) the offence, including the circumstances of the offence;
18 (b) the biosecurity impact of the offence;
19 (c) any other consequence and any other order made against the
20 person.
21 (2) The court may fix a period for compliance and impose any other
22 requirement that the court considers necessary or convenient for
23 enforcement of the order.

- 1 (3) A person commits an offence if the person—
2 (a) is subject to an order under this section; and
3 (b) intentionally fails to comply with the order.
4 Maximum penalty: 100 penalty units.
5 (4) If a person fails to comply with an order under subsection (1), the
6 director-general may take action to carry out the order.
7 (5) The director-general may recover from the person the reasonable
8 costs of taking action under this section.

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

11 **212 Orders to undertake training or other projects**

- 12 (1) If a court convicts a person, or finds a person guilty, of an offence
13 against this Act, the court may order the person to do 1 or more of the
14 following:
15 (a) attend, or cause an employee or contractor of the person to
16 attend, a training or other course stated by the court;
17 (b) carry out, or contribute a stated amount to the cost of carrying
18 out, a stated project that will promote the objects of this Act.
19 (2) The court may fix a period for compliance and impose any other
20 requirements that the court considers necessary or convenient for
21 enforcement of the order.
22 (3) A person commits an offence if the person—
23 (a) is subject to an order under this section; and
24 (b) intentionally fails to comply with the order.
25 Maximum penalty: 100 penalty units.

1 **Part 14 Compensation**

2 *Note* Additional compensation may be payable under a national biosecurity
3 agreement.

4 **213 Meaning of *emergency biosecurity matter*—pt 14**

5 In this part:

6 *emergency biosecurity matter* means biosecurity matter that is the
7 subject of an emergency declaration.

8 **214 Compensation payable to owners of animals, plants and
9 property**

10 Compensation is payable under this part to the owner of—

- 11 (a) an animal, plant or property that has been destroyed in
12 accordance with an emergency declaration; and
- 13 (b) an animal or plant if the director-general is satisfied that—
- 14 (i) the animal or plant has died because of emergency
15 biosecurity matter; and
- 16 (ii) there has been no unreasonable delay in reporting the death
17 of the animal or plant; and
- 18 (iii) the destruction of the animal or plant would have been
19 required under this Act had the animal or plant not died.

20 **215 Amount of compensation payable**

21 (1) Unless the director-general and the owner of the animal, plant or
22 property agree otherwise, the amount of compensation payable under
23 section 214 is—

- 24 (a) the market value of the animal, plant or property—
- 25 (i) for an animal, plant or property mentioned in
26 section 214 (a)—immediately before it was destroyed; or

- 1 (ii) for an animal or plant mentioned in section 214 (b)—
2 immediately before the director-general was notified that it
3 was affected by, or died because of, emergency biosecurity
4 matter; and
- 5 (b) any additional amount prescribed by regulation.
- 6 (2) The method for assessing the market value of an animal, plant or
7 property—
- 8 (a) must consider the animal, plant or property as if it were not
9 affected by the emergency biosecurity matter; and
- 10 (b) may be prescribed by regulation.

11 **216 Other losses excluded**

12 No compensation is payable under this part for any loss of profit, loss
13 caused by breach of contract, loss of production or any other
14 consequential loss.

15 **217 Time limit for claims**

16 A claim for compensation under this part must be made, in writing,
17 to the director-general within 90 days after the destruction or death of
18 the animal, plant or property, or any longer period decided by the
19 director-general.

20 **218 Grounds for refusing or reducing claim**

- 21 (1) The director-general may direct, in writing, that all or part of any
22 compensation payable under this part, not be paid if the
23 director-general is satisfied that—
- 24 (a) the owner of the animal, plant or property has committed an
25 offence in the ACT or elsewhere in Australia and the conduct
26 constituting the offence has caused or contributed to—
- 27 (i) the spread of the emergency biosecurity matter; or

- 1 (ii) the destruction or death of an animal, plant or property for
2 which the claim for compensation is made; or
- 3 (b) the owner of the animal, plant or property is indemnified for the
4 loss caused by the death or destruction under a contract of
5 insurance; or
- 6 (c) the emergency biosecurity matter was, immediately before the
7 emergency declaration, kept at premises where the animal, plant
8 or property was located before its death or destruction in
9 contravention of a requirement imposed under this Act; or
- 10 (d) the owner of the animal, plant or property has made a claim for
11 compensation that is false or misleading in a material particular;
12 or
- 13 (e) the animal, plant or property was required to be destroyed under
14 a control declaration, biosecurity direction or other instrument
15 made under this Act (other than an emergency declaration).
- 16 (2) The director-general may direct that compensation otherwise payable
17 under this part, not be paid in any other circumstances prescribed by
18 regulation.

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

21 **219 Power to correct decision and require repayment**

- 22 (1) If the director-general decides a claim, and is later satisfied that the
23 decision is incorrect, the director-general may amend or reverse the
24 decision.
- 25 (2) A decision cannot be amended or reversed under this section more
26 than 5 years after it is made.
- 27 (3) Subsection (2) does not apply to a decision that was made on the basis
28 of false or misleading information provided by a claimant or a person
29 on behalf of the claimant.

1 (4) If the director-general amends or reverses a decision, the
2 director-general may, in writing, direct the claimant to repay an
3 amount of compensation paid under this part.

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

1 **Part 15** **Notification and review of**
2 **decisions**

3 **220** **Meaning of *reviewable decision*—pt 15**

4 In this part:

5 *reviewable decision* means a decision mentioned in Schedule 1,
6 column 3 under a provision of this Act mentioned in column 2 in
7 relation to the decision.

8 **221** **Reviewable decision notices**

9 If a decision-maker makes a reviewable decision, the decision-maker
10 must give a reviewable decision notice to each person mentioned in
11 schedule 1, column 4 in relation to the decision.

12 *Note 1* The decision-maker must also take reasonable steps to give a reviewable
13 decision notice to any other person whose interests are affected by the
14 decision (see [ACT Civil and Administrative Tribunal Act 2008](#), s 67A).

15 *Note 2* The requirements for reviewable decision notices are prescribed under
16 the [ACT Civil and Administrative Tribunal Act 2008](#).

17 **222** **Applications for review**

18 The following people may apply to the ACAT for a review of a
19 reviewable decision:

20 (a) a person mentioned in schedule 1, column 4 in relation to the
21 decision;

22 (b) any other person whose interests are affected by the decision.

23 *Note* If a form is approved under the [ACT Civil and Administrative Tribunal](#)
24 [Act 2008](#) for the application, the form must be used.

- 1 **226 Protection of others from liability**
- 2 (1) Civil or criminal liability is not incurred only because of any of the
- 3 following done honestly and without recklessness:
- 4 (a) giving the director-general information about a biosecurity
- 5 event, biosecurity risk or biosecurity impact;
- 6 (b) giving the director-general other information about biosecurity
- 7 matter or a carrier, or any dealing with biosecurity matter or a
- 8 carrier.
- 9 (2) Also, giving any information about biosecurity matter or a carrier
- 10 honestly and without recklessness to the director-general is not—
- 11 (a) a breach of confidence; or
- 12 (b) a breach of professional etiquette or ethics; or
- 13 (c) a breach of a rule of professional conduct.
- 14 **227 Criminal liability of executive officers**
- 15 (1) An executive officer of a corporation is taken to commit an offence
- 16 if—
- 17 (a) the corporation commits an offence against this Act (a *relevant*
- 18 *offence*); and
- 19 (b) the officer was reckless about whether the relevant offence
- 20 would be committed; and
- 21 (c) the officer was in a position to influence the conduct of the
- 22 corporation in relation to the commission of the relevant
- 23 offence; and

- 1 (d) the officer failed to take reasonable steps to prevent the
2 commission of the relevant offence.
- 3 Maximum penalty: The maximum penalty that may be imposed for
4 the commission of the relevant offence by an individual.
- 5 (2) Subsection (1) does not apply if the corporation has a defence to a
6 prosecution for the relevant offence.
- 7 *Note* The defendant has an evidential burden in relation to the matters
8 mentioned in s (2) (see [Criminal Code](#), s 58).
- 9 (3) In deciding whether the executive officer took (or failed to take) all
10 reasonable steps to prevent the commission of the offence, a court
11 must consider any action the officer took directed towards ensuring
12 the following (to the extent that the action is relevant to the act or
13 omission):
- 14 (a) that the corporation arranges regular professional assessments
15 of the corporation's compliance with the provision to which the
16 relevant offence relates;
- 17 (b) that the corporation implements any appropriate
18 recommendation arising from the assessments;
- 19 (c) that the corporation's employees, agents and contractors have a
20 reasonable knowledge and understanding of the requirement to
21 comply with the provision to which the relevant offence relates;
- 22 (d) any action the officer took when the officer became aware that
23 the relevant offence was, or might be, about to be committed.
- 24 (4) Subsection (3) does not limit the matters the court may consider.
- 25 (5) This section applies whether or not the corporation is prosecuted for,
26 or convicted of, the relevant offence.

- 1 (6) In this section:
2 *executive officer*, of a corporation—
3 (a) means a person, however described, who is concerned with, or
4 takes part in, the corporation's management; and
5 (b) includes a director of the corporation.

6 **228 Meaning of *influential person* for a corporation**

- 7 (1) In this Act:
8 *influential person*, for a corporation, means—
9 (a) an executive officer of the corporation; or
10 (b) a person who may exercise a relevant power in relation to the
11 corporation; or
12 (c) a related corporation; or
13 (d) an executive officer of a related corporation.
14 (2) In this section:
15 *executive officer*, of a corporation—see section 227 (6).
16 *related corporation* means a related body corporate under the
17 [Corporations Act](#).
18 *relevant power*, for a corporation, means a power to—
19 (a) take part in a directorial, managerial or executive decision for
20 the corporation; or
21 (b) elect or appoint a person as an executive officer in the
22 corporation; or
23 (c) significantly influence the conduct of the corporation.

1 **229 Appointment of analysts**

- 2 (1) The director-general may appoint a person as an analyst for this Act.
- 3 (2) However, the director-general must not appoint a person as an analyst
- 4 unless satisfied the person has the qualifications and experience
- 5 necessary to exercise the functions of an analyst.

6 *Note* For laws about appointments, see the [Legislation Act](#), pt 19.3.

7 **230 Cruelty to animals not authorised**

8 Nothing in this Act authorises a contravention of the [Animal Welfare](#)

9 [Act 1992](#).

10 **231 Limit on certain powers in relation to humans and**

11 **residential premises**

- 12 (1) For the following provisions, *carrier* does not include a human:
- 13 (a) section 42 (2) (k) (Emergency declarations—scope of
- 14 emergency measures);
- 15 (b) section 55 (2) (k) (Control declarations—scope of emergency
- 16 measures);
- 17 (c) section 148 (k) (Biosecurity directions—scope of directions);
- 18 (d) section 176 (1) (k) (General powers on entry to premises);
- 19 (e) section 234 (2) (b) and (d) (Regulation-making power).
- 20 (2) None of the following provisions authorise the installation or use of
- 21 a device in a part of premises that is being used only for residential
- 22 purposes without the consent of the occupier of the premises:
- 23 (a) section 42 (2) (l);
- 24 (b) section 55 (2) (l);
- 25 (c) section 148 (l);
- 26 (d) section 176 (1) (l).

1 **232 Minister may exempt people, biosecurity matter, etc**

2 (1) The Minister may declare that this Act, or a provision of this Act,
3 does not apply to a stated person, biosecurity matter, carrier, premises
4 or other thing.

5 (2) A declaration is a disallowable instrument.

6 **233 Determination of fees**

7 (1) The Minister may determine fees for this Act.

8 (2) A determination is a disallowable instrument.

9 **234 Regulation-making power**

10 (1) The Executive may make regulations for this Act.

11 (2) A regulation may make provision in relation to the following:

12 (a) any matter relating to the management of a biosecurity risk or
13 biosecurity impact;

14 (b) the testing, analysis, vaccination, inoculation and other
15 treatment of any biosecurity matter or carrier, including—

16 (i) the authorisation of a person to carry out the testing,
17 analysis, vaccination, inoculation or other treatment; and

18 (ii) the use, manufacture, testing, distribution, storage, display
19 or supply of any substance or equipment used for the
20 testing, analysis, vaccination, inoculation or other
21 treatment;

22 (c) the classification and identification of any premises, biosecurity
23 matter, carrier or other thing;

24 (d) the marking, branding, tagging, or attaching of a device or other
25 identifier to any biosecurity matter or carrier whether on a
26 voluntary or mandatory basis;

- 1 (e) the establishment and administration of a register of people,
2 premises, biosecurity matter, carriers, dealings or any other
3 matter or other thing for this Act;
- 4 (f) animal food including—
- 5 (i) the amount of a stated ingredient or other thing that may be
6 added to, or contained in, animal food; and
- 7 (ii) the use, manufacture, testing, distribution, storage, display
8 or supply of animal food;
- 9 (g) fertilisers including—
- 10 (i) the amount of a stated ingredient or other thing that may be
11 added to, or contained in, a fertiliser; and
- 12 (ii) the use, manufacture, testing, distribution, storage, display
13 or supply of fertilisers.
- 14 (3) A regulation may apply, adopt or incorporate an instrument as in force
15 from time to time.
- 16 *Note* The text of an applied, adopted or incorporated instrument, whether
17 applied as in force from time to time or as at a particular time, is taken to
18 be a notifiable instrument if the operation of the [Legislation Act](#), s 47 (5)
19 or (6) is not disapplied (see s 47 (7)).
- 20 (4) A regulation may create offences and fix maximum penalties of not
21 more than 50 penalty units for the offences.

Part 17 Repeals

235 Legislation repealed

(1) The following legislation is repealed:

- *Animal Diseases Act 2005* (A2005-18)
- *Animal Diseases Regulation 2006* (SL2006-39)
- *Fertilisers (Labelling and Sale) Act 1904* (A1904-33)
- *Magistrates Court (Pest Plants and Animals Infringement Notices) Regulation 2005* (SL2005-34)
- *Magistrates Court (Plant Diseases Infringement Notices) Regulation 2005* (SL2005-32)
- *Pest Plants and Animals Act 2005* (A2005-21)
- *Plant Diseases Act 2002* (A2002-42).

(2) The following instruments are repealed:

- *Legislation (Animal Diseases) Delegation 2017* (NI2017-199)
- *Legislation (Plant Diseases) Delegation 2018 (No 1)* (NI2018-395)
- *Public Sector Management (Animal Diseases) Delegation 2017* (NI2017-638)
- *Public Sector Management (Pest Plants and Animals) Delegation 2016 (No 1)* (NI2016-298)
- *Public Sector Management (Pest Plants and Animals) Delegation 2017* (NI2017-641)
- *Public Sector Management (Plant Diseases) Delegation 2017* (NI2017-640).

(3) All other statutory instruments made under the legislation mentioned in subsection (1) are repealed.

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 order	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

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.

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

- 1 (e) any product or biological preparation prepared, or derived, from
2 any tissue, secretion, excretion or other part of an animal; and
3 (f) any other material of animal origin prescribed by regulation.
- 4 ***approval decision notice***—see section 131 (3).
5 ***approval-holder***—see section 120.
6 ***assess*** includes investigate.
7 ***auditor authority***—see section 120.
8 ***audit report***—see section 117 (1).
9 ***authorisation-holder***—see section 114.
10 ***authorised person*** means an authorised person mentioned in
11 section 168.
12 ***biosecurity audit***—see section 115 (1).
13 ***biosecurity auditor***—see section 120.
14 ***biosecurity certificate***—see section 110 (1).
15 ***biosecurity certifier***—see section 120.
16 ***biosecurity direction***—see section 146 (1).
17 ***biosecurity event***—see section 25.
18 ***biosecurity impact***—see section 12 (1).
19 ***biosecurity matter***—see section 8 (1).
20 ***biosecurity permit***—see section 62.
21 ***biosecurity registration***—see section 89.
22 ***biosecurity risk***—see section 13.
23 ***biosecurity undertaking***—see section 158 (1).
24 ***carrier***—see section 9.
25 ***certifier authority***—see section 120.

- 1 **community** includes the community of the ACT, of areas surrounding
2 the ACT, and of Australia as a whole.
- 3 **connected**, for part 12 (Enforcement—authorised people)—see
4 section 167.
- 5 **contaminant** means a non-living thing that—
- 6 (a) occurs in or on other biosecurity matter or a carrier; or
- 7 (b) may be ingested or absorbed by another biosecurity matter or a
8 carrier.
- 9 **control declaration**—see section 51 (1).
- 10 **control measures**, for a control declaration, for part 4 (Biosecurity
11 control declarations)—see section 51 (2) (b).
- 12 **control zone**, for a control declaration—see section 51 (2) (c).
- 13 **corresponding biosecurity law**—
- 14 (a) means a law of the Commonwealth, a State or another Territory
15 that corresponds, or substantially corresponds, to this Act; and
- 16 (b) includes a law prescribed by regulation.
- 17 **deal**, with biosecurity matter or a carrier—see section 10.
- 18 **declared pest**—see section 11 (2).
- 19 **disease** includes—
- 20 (a) an infection or infestation of an organism resulting in, or having
21 the potential to result in, an abnormal, pathological or unhealthy
22 condition caused by a known or unknown disease agent or pest;
23 or
- 24 (b) a syndrome, or a clinically identifiable set of signs or symptoms
25 in an organism, for which the cause is known or unknown; or
- 26 (c) anything else prescribed by regulation.
- 27 **disease agent** includes a prion, virus, microorganism, infectious agent
28 and parasite.

- 1 **economy** includes the economy of the ACT, of areas surrounding the
2 ACT, and of Australia as a whole.
- 3 **emergency biosecurity matter**, for part 14 (Compensation)—see
4 section 213.
- 5 **emergency declaration**—see section 38 (1).
- 6 **emergency measures**, for an emergency declaration—see
7 section 38 (2) (b).
- 8 **emergency zone**, for an emergency declaration—see
9 section 38 (2) (c).
- 10 **environment** includes the environment of the ACT, of areas
11 surrounding the ACT, and of Australia as a whole.
- 12 **external treatment measure**, for a person, means a treatment that—
13 (a) is limited to the external parts of the person’s body; and
14 (b) does not require—
15 (i) anything to penetrate the person’s skin; or
16 (ii) the person to ingest anything.
- 17 **general biosecurity duty**—see section 22.
- 18 **group exemption**, for part 5 (Biosecurity permits and group
19 exemptions)—see section 83 (1).
- 20 **heritage place or object** means a place or object registered, or
21 nominated for provisional registration, under the [Heritage Act 2004](#).
- 22 **influential person**, for a corporation—see section 228 (1).
- 23 **infrastructure**, in a reserve—see the [Nature Conservation Act 2014](#),
24 section 222 (7).
- 25 **interfere with** an item, includes damage or destroy the item.
- 26 **interstate biosecurity certificate**, for part 7 (Biosecurity
27 certificates)—see section 111 (1).

- 1 **manage**, a biosecurity risk or biosecurity impact, includes assess,
2 prevent, eliminate, minimise and control the risk or impact.
- 3 **move** includes transport and distribute.
- 4 **native animal**—see the *Nature Conservation Act 2014*, section 12.
- 5 **native plant**—see the *Nature Conservation Act 2014*, section 14.
- 6 **notifiable biosecurity matter**, for division 2.4 (Notifying presence of
7 notifiable biosecurity matter)—see section 29 (1).
- 8 **occupier**, of premises, for part 12 (Enforcement—authorised
9 people)—see section 167.
- 10 **offence**, for part 12 (Enforcement—authorised people)—see
11 section 167.
- 12 **permit decision notice**, for division 5.1 (Biosecurity permits)—see
13 section 67 (4).
- 14 **permit-holder**—see section 62.
- 15 **pest**—see section 11 (1).
- 16 **plant** includes any member of the Plantae, Fungi or Protista
17 kingdoms, whether whole or in part and whether alive or dead.
- 18 **plant product** includes dried plant material or timber.
- 19 **possession**, of a thing, includes having care, custody or control of the
20 thing.
- 21 **premises** includes—
- 22 (a) any land, whether built on or not; and
- 23 (b) any building, structure or vehicle; and
- 24 (c) any public place or private place.
- 25 **prohibited biosecurity matter**—see section 33 (1).
- 26 **prohibited dealing**—see section 35 (1).
- 27 **property-specific emergency declaration**—see section 38 (4).

- 1 **reasonable steps**, to manage a biosecurity risk—see section 21.
- 2 **registered person** means a person registered under part 6 (Biosecurity
3 registration) to engage in a regulated dealing.
- 4 **registration decision notice**, for part 6 (Biosecurity registration)—
5 see section 95 (4).
- 6 **regulated dealing**—see section 88.
- 7 **reserve**—see the *Nature Conservation Act 2014*, section 169 (1).
- 8 **residential premises** means any part of premises that is used only for
9 residential purposes.
- 10 **reviewable decision**, for part 15 (Notification and review of
11 decisions)—see section 220.
- 12 **specific biosecurity requirement**—see section 23 (1).
- 13 **supply** includes sell.
- 14 **treatment measure**—
- 15 (a) means a treatment, or process, used to manage a biosecurity risk
16 or biosecurity impact; and
- 17 (b) includes—
- 18 (i) a process or measure to treat, clean, fumigate, irradiate,
19 disinfect, medicate or vaccinate; and
- 20 (ii) destruction of any biosecurity matter or other thing.
- 21 **vehicle** means a conveyance of any kind, however propelled, and
22 whether or not capable of being moved or operated and includes—
- 23 (a) a caravan, trailer, truck, train and any other land vehicle; and
- 24 (b) a vessel; and
- 25 (c) an aeroplane, helicopter, hot air balloon, drone and any other
26 aircraft.

- 1 **vessel** includes—
2 (a) a ship, boat, hovercraft, ferry, raft and any other water craft; and
3 (b) a pontoon, floating pier and any other floating structure.
4 **warrant**, for part 12 (Enforcement—authorised people)—see
5 section 167.

Endnotes

- 1 **Presentation speech**
Presentation speech made in the Legislative Assembly on 10 May 2023.
- 2 **Notification**
Notified under the [Legislation Act](#) on 2023.
- 3 **Republications of amended laws**
For the latest republication of amended laws, see www.legislation.act.gov.au.
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