



Australian Capital Territory

Animal Diseases Regulation 2006

Subordinate Law SL2006-39

The Australian Capital Territory Executive makes the following regulation under the *Animal Diseases Act 2005*.

Dated 10 July 2006.

JOHN HARGREAVES
Minister

SIMON CORBELL
Minister



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Part 1 Preliminary

1 Name of regulation

This regulation is the *Animal Diseases Regulation 2006*.

2 Commencement

This regulation commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Dictionary

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

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

For example, the signpost definition '*property identifier code*—see section 36.' means that the term 'property identifier code' is defined in that section.

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

4 Notes

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

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

5 Offences against regulation—application of Criminal Code etc

Other legislation applies in relation to offences against this regulation.

Note 1 Criminal Code

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

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

Note 2 Penalty units

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

Part 2 Identification of stock

Division 2.1 Approved tags

6 Approved tags—Act, dict, def *approved tag*

- (1) Each of the following is an *approved tag* for the stock for which it is approved:
 - (a) a tag approved under section 7 (Chief executive may approve tag);
 - (b) an NLIS device approved under section 9 (Chief executive may approve NLIS device);
 - (c) a mark taken to be an approved tag under section 25 (Approved marks—tags);
 - (d) a special purpose tag approved under section 29 (Approval of special purpose tag).
- (2) An NLIS device issued or approved under a corresponding law in relation to stock is taken to be an *approved tag* for the stock in relation to a place in the ACT where the stock is kept or intended to be kept.

7 Chief executive may approve tag

- (1) The chief executive may approve a tag for tagable stock in relation to any of the following:
 - (a) a holding;
 - (b) a public road;
 - (c) an area of public land;
 - (d) a saleyard;

(e) an abattoir.

Note 1 A tag may be approved for a particular kind of tagable stock (see Legislation Act, s 48).

Note 2 **Tag, tagable stock** and **holding** are defined in the Act, dict.

(2) The chief executive may approve a tag—

(a) on the chief executive's own initiative; or

(b) on application by—

(i) the owner or person in charge of tagable stock; or

(ii) the owner or occupier of a holding where tagable stock is, or is intended to be, kept.

Note 1 A fee may be determined under the Act, s 88 for this provision.

Note 2 If a form is approved under the Act, s 89 for an application, the form must be used.

8 Approved ways of using tags

(1) The chief executive may approve a way of using an approved tag to identify stock.

Examples

1 where a tag must be placed or attached

2 how an NLIS device may be implanted

3 how a tail tag may be attached or placed

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(2) An approval is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (3) An approval may apply, adopt or incorporate an instrument, as in force from time to time.

Note 1 The text of an applied, adopted or incorporated instrument, whether applied as in force from time to time or as at a particular time, is taken to be a notifiable instrument if the operation of the Legislation Act, s 47 (5) or (6) is not disapplied (see s 47 (7)).

Note 2 A notifiable instrument must be notified under the Legislation Act.

Division 2.2 NLIS devices

9 Chief executive may approve NLIS device

- (1) The chief executive may approve an NLIS device for tagable stock.

Note 1 An NLIS device may be approved for a particular kind of tagable stock (see the Legislation Act, s 48).

Note 2 An approved NLIS device is an *approved tag* for the Act (see s 6 (1)).

- (2) An NLIS device may be approved for tagable stock in relation to any of the following:

- (a) a holding;
- (b) a public road;
- (c) an area of public land;
- (d) a saleyard;
- (e) an abattoir.

Note An NLIS device may be approved as an special purpose tag under section 29.

- (3) The chief executive may approve an NLIS device—

- (a) on the chief executive's own initiative; or
- (b) on application by—
 - (i) the owner or person in charge of tagable stock; or

- (ii) the owner or occupier of a holding where tagable stock is, or is intended to be, kept.

Note 1 A fee may be determined under the Act, s 88 for this provision.

Note 2 If a form is approved under the Act, s 89 for an application, the form must be used.

10 Registering details of approved NLIS device

- (1) The chief executive must enter the following in the register:
 - (a) the identification particulars for each approved NLIS device (other than an NLIS device approved as a special purpose tag under section 29);
 - (b) information given to the chief executive under any of the following:
 - (i) section 17 (Information about NLIS tagable stock—saleyards);
 - (ii) section 18 (Information about NLIS tagable stock—stock and station agents);
 - (iii) section 19 (Information about NLIS tagable stock—abattoirs);
 - (iv) section 20 (Information about NLIS tagable stock—lost etc);
 - (v) section 21 (Information about NLIS tagable stock—holdings without property identifier code);
 - (vi) section 22 (Information about NLIS tagable stock—exports);
 - (vii) section 23 (Information about NLIS tagable stock—arrival at holding).

Note **Register** is defined in the Act, dict.

- (2) The chief executive may allow a person to have access to the records at any reasonable time if satisfied that the information is to be used for a purpose consistent with the object of the Act.

Note A fee may be determined under the Act, s 88 for this provision.

11 Sale and supply of NLIS device

- (1) A person commits an offence if—
- (a) the person sells or supplies an NLIS device; and
 - (b) the person is not an approved manufacturer of the NLIS device.

Maximum penalty: 10 penalty units.

- (2) An approved manufacturer commits an offence if—
- (a) the manufacturer sells or supplies an NLIS device; and
 - (b) the device is not an approved NLIS device.

Maximum penalty: 10 penalty units.

- (3) A person commits an offence if—
- (a) the person sells or supplies an approved NLIS device; and
 - (b) the person fails to give the authorised administrator, before the end of the next working day after the day the device is sold or supplied—
 - (i) the identification particulars for the device; and
 - (ii) details of when and to whom the device was sold or supplied.

Maximum penalty: 10 penalty units.

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

12 Use of NLIS device

- (1) A person commits an offence if the person—
- (a) uses an NLIS device to identify stock; and
 - (b) the device is not an approved NLIS device.

Maximum penalty: 10 penalty units.

- (2) A person commits an offence if the person uses an approved NLIS device to identify stock in a way that contravenes an approval under section 8 (Approved ways of using tags).

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.

13 Loss or theft of approved NLIS device

A person commits an offence if—

- (a) the person owns or is in charge of stock or is the owner or occupier of a holding; and
- (b) an NLIS device has been approved in relation to the stock or holding; and
- (c) the person becomes aware that the NLIS device is lost or stolen before it is used to tag stock; and
- (d) the person does not, within 7 days after the day the person becomes aware of the loss or theft—
 - (i) tell the authorised administrator about the loss or theft; and
 - (ii) give the authorised administrator the identification particulars for the device.

Maximum penalty: 10 penalty units.

14 Alteration of NLIS equipment

A person commits an offence if—

- (a) the person alters equipment; and
- (b) the equipment is used for attaching or reading an approved NLIS device; and
- (c) the alteration changes or modifies the way in which identification particulars of an NLIS device are read, recorded or shown.

Maximum penalty: 10 penalty units.

15 When stock must be tagged with approved NLIS device

- (1) This section applies to the following stock:
 - (a) cattle other than—
 - (i) a calf born at or travelling to a saleyard, if it is being sold with its dam and sent directly with its dam to a property owned or occupied by the buyer; or
 - (ii) a bull born before 1 July 2004 that weighs more than 750 kilograms; or
 - (iii) any other cattle born before 1 July 2004 and weighing more than 750 kilograms if—
 - (A) the animal was previously identified with an approved NLIS device that has been lost or damaged; or
 - (B) an authorised officer decides it is impractical or too dangerous to tag the animal;
 - (b) any other stock for which an NLIS device is approved.

- (2) Unless the stock is already tagged with an approved NLIS device, the owner of the stock must tag the stock with an approved NLIS device—
- (a) when the stock arrives in the ACT; or
 - (b) before the stock leaves any holding where it is kept; or
 - (c) if the director directs the owner to tag the stock in circumstances declared under subsection (4).

Maximum penalty: 10 penalty units.

Example for par (b)

Stock that is agisted at a holding is moved back to a holding occupied by the owner of the stock.

Note 1 If stock is being moved from 1 place to another place with the same property identifier code, it does not leave the holding (see definition of **holding**, the Act, dict).

Note 2 An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) An offence against this section is a strict liability offence.
- (4) The chief executive may declare the circumstances in which a direction under subsection (2) (c) may be given.
- (5) A declaration under subsection (4) is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

16 Stock already identified

- (1) A person commits an offence if—
- (a) the person uses an NLIS device to tag stock; and
 - (b) the stock is already tagged with an approved NLIS device.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

17 Information about NLIS tagable stock—saleyards

- (1) This section applies to stock to which section 15 (When stock must be tagged with approved NLIS device) applies.
- (2) If stock arrives at a saleyard, the owner or person in charge of the stock must give the owner or person in charge of the saleyard—
 - (a) if the stock was held at a holding before being sent to the saleyard—
 - (i) the property identifier code for the holding; or
 - (ii) if there is no property identifier code for the holding—the address of the holding; and
 - (b) if the stock was held by a stock and station agent before being sent to the saleyard—the name and address of the stock and station agent.
- (3) Before stock leaves a saleyard, the person who has taken possession of the stock must give the owner or person in charge of the saleyard—
 - (a) if the stock is to be sent to a holding—
 - (i) the property identifier code for the holding; or
 - (ii) if there is no property identifier code for the holding, the address of the holding; or
 - (b) if a stock and station agent has taken possession of the stock—the name and address of the agent.
- (4) The owner or person in charge of a saleyard must, by the close of business on the next working day after the sale of stock at the saleyard, give the authorised administrator the identification particulars for the stock.

Note If a form is approved under the Act, s 89 for this provision, the form must be used.

- (5) A person commits an offence if the person fails to comply with a requirement that applies to the person under this section.

Maximum penalty: 10 penalty units.

- (6) An offence against subsection (5) is a strict liability offence.

18 Information about NLIS tagable stock—stock and station agents

- (1) This section applies to stock to which section 15 (When stock must be tagged with approved NLIS device) applies.

- (2) If the stock is sent to a stock and station agent, the agent must—

- (a) by the close of business on the next working day after receiving the stock, make a record of—

- (i) the identification particulars for the stock; and
(ii) the address where the stock is held before being sent to a holding, abattoir or saleyard as required under subsection (3); and

- (b) keep any record made under paragraph (a) for at least 2 years after the date when it was made; and

- (c) if asked to do so by an authorised person, produce the record for inspection.

Note If a form is approved under the Act, s 89 for this provision, the form must be used.

- (3) If stock is sent to a stock and station agent, the agent must, no later than 7 days after receiving the stock—

- (a) send the stock to a holding, abattoir or saleyard; and

- (b) give the authorised administrator the identification particulars for the stock.

Note If a form is approved under the Act, s 89 for this provision, the form must be used.

- (4) For this section, stock *sent* to a stock or station agent includes stock sent or taken to, or kept at, a place with the agent's approval.
- (5) A person commits an offence if the person fails to comply with a requirement that applies to the person under this section.
Maximum penalty: 10 penalty units.
- (6) An offence against subsection (5) is a strict liability offence.

19 Information about NLIS tagable stock—abattoirs

- (1) This section applies to stock to which section 15 (When stock must be tagged with approved NLIS device) applies.
- (2) If the stock is sent to an abattoir in the ACT, the owner or person in charge of the abattoir must, by the close of business on the next working day after the stock is slaughtered, give the authorised administrator—
 - (a) the identification particulars for the stock; and
 - (b) for stock more than 6 weeks old when it is slaughtered, details of the weight of the carcass before chilling and after bleeding, skinning, evisceration and trimming.

Note If a form is approved under the Act, s 89 for this provision, the form must be used.

- (3) A person commits an offence if the person fails to comply with a requirement that applies to the person under this section.
Maximum penalty: 10 penalty units.
- (4) An offence against subsection (3) is a strict liability offence.

20 Information about NLIS tagable stock—lost etc

- (1) This section applies to stock to which section 15 (When stock must be tagged with approved NLIS device) applies.

- (2) If stock that arrives at an abattoir, saleyard or a stock and station agent dies before slaughter or is lost or stolen, the owner or person in charge of the abattoir or saleyard, or the stock and station agent, must, by the close of business on the next working day after becoming aware of the death, loss or theft—
- (a) tell the authorised administrator about the death, loss or theft; and
 - (b) give the authorised administrator the identification particulars for the stock.

Note If a form is approved under the Act, s 89 for this provision, the form must be used.

- (3) A person commits an offence if the person fails to comply with a requirement that applies to the person under this section.

Maximum penalty: 10 penalty units.

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

21 Information about NLIS tagable stock—holdings without property identifier code

- (1) This section applies to stock to which section 15 (When stock must be tagged with approved NLIS device) applies.
- (2) If the stock is sent to an abattoir, saleyard or stock and station agent from a holding that does not have a property identifier code, the owner or person in charge of the abattoir or saleyard, or the stock and station agent, must—
- (a) make a record of—
 - (i) the identification particulars for the stock; and
 - (ii) the address of the holding from which the stock was sent; and
 - (b) keep the record for at least 7 years after the date when it was made; and

- (c) if asked to do so by an authorised person, produce the record for inspection.

Note If a form is approved under the Act, s 89 for this provision, the form must be used.

- (3) If stock is sent from a saleyard or by a stock and station agent to a holding that does not have a property identifier code, the owner or person in charge of the saleyard, or the stock and station agent must—

- (a) make a record of—

- (i) the identification particulars for the stock; and
(ii) the address of the holding to which the stock was sent; and

- (b) keep the record for at least 7 years after the date when it was made; and

- (c) if asked to do so by an authorised person, produce the record for inspection.

Note If a form is approved under the Act, s 89 for this provision, the form must be used.

- (4) A person commits an offence if the person fails to comply with a requirement that applies to the person under this section.

Maximum penalty: 10 penalty units.

- (5) An offence against subsection (4) is a strict liability offence.

22 Information about NLIS tagable stock—exports

- (1) This section applies to stock to which section 15 (When stock must be tagged with approved NLIS device) applies.

- (2) If the stock is sent for overseas export, the owner or person in charge of the stock must, not later than 7 days after the date when the stock leaves the ACT for export, give the authorised administrator the identification particulars for the stock.

Note If a form is approved under the Act, s 89 for this provision, the form must be used.

- (3) A person commits an offence if the person fails to comply with a requirement that applies to the person under this section.

Maximum penalty: 10 penalty units.

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

23 Information about NLIS tagable stock—arrival at holding

- (1) This section applies to stock to which section 15 (When stock must be tagged with approved NLIS device) applies.

- (2) If the stock arrives at a holding, the owner or person in charge of the stock at the holding must—

(a) if the stock has arrived directly from a saleyard or stock and station agent—give the authorised administrator the identification particulars for the stock no later than 7 days after the arrival of the stock; and

(b) if the stock has arrived from a holding that does not have a property identifier code—

(i) no later than 7 days after the arrival of the stock, make a record of—

(A) the identification particulars for the stock; and

(B) the address of the holding from which the stock was sent; and

(ii) keep the record for at least 7 years from the date when it was made; and

- (iii) if asked to do so by an authorised person, produce the record for inspection.

Note If a form is approved under the Act, s 89 for this provision, the form must be used.

- (3) A person commits an offence if the person fails to comply with a requirement that applies to the person under this section.

Maximum penalty: 10 penalty units.

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

Division 2.3 Marks

24 Application—div 2.3

This division applies to—

- (a) pigs; and
- (b) any other stock prescribed by regulation.

25 Approved marks—tags

A mark is taken to be an approved tag for stock to which this division applies if it contains a property identifier code approved by the chief executive.

26 Sale of untagged stock etc

- (1) A person commits an offence if the person sells stock to which this division applies that—

- (a) is not tagged with an approved tag; or
- (b) is tagged with an approved tag, but in a way that contravenes an approval under section 8.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

27 Stock sent for sale or slaughter

- (1) A person commits an offence if—
- (a) the person is the owner of stock to which this division applies; and
 - (b) the person sends the stock to—
 - (i) an abattoir for slaughter; or
 - (ii) a saleyard for sale; and
 - (c) the stock—
 - (i) is not tagged with an approved tag; or
 - (ii) is tagged with an approved tag, but in a way that contravenes an approval under section 8.

Maximum penalty: 10 penalty units.

- (2) A person commits an offence if—
- (a) the person is an owner of stock; and
 - (b) the stock is at a saleyard for sale; and
 - (c) the stock—
 - (i) is not tagged with an approved tag; or
 - (ii) is tagged with an approved tag, but in a way that contravenes an approval under section 8.

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.

28 Exceptions to s 26 and s 27

Section 26 and section 27 do not apply to the following:

- (a) the sale of stud stock at, or the sending of stud stock to, an agricultural show or exhibition;

- (b) the sale of stock incidental to the sale of land or the sale of a business under which the stock will remain on the land or be retained as part of the property of the business;
- (c) the sale, or the sending to an abattoir or saleyard, of stock that has been—
 - (i) brought into the ACT during the preceding 28 days; and
 - (ii) tagged under a corresponding law;
- (d) the sending to an abattoir or saleyard of stock if—
 - (i) the sending has been approved by the director; and
 - (ii) the stock is tagged with an approved tag before sale;
- (e) anything done with the written approval of the director.

Division 2.4 Special purpose tags

29 Approval of special purpose tag

- (1) On application by the owner or person in charge of tagable stock, an authorised person may approve a tag as a special purpose tag for the stock if—
 - (a) the holding where the stock is located does not have a property identifier code; or
 - (b) the authorised person is satisfied that—
 - (i) no other approved tag is readily available for the stock; or
 - (ii) another approved tag for the stock is not, or would not be, effective for identifying the stock for this Act.

Examples for subpar (ii)

- 1 the tag cannot be safely attached to the stock
- 2 a tag attached to the stock is or may become unreadable

3 a tag previously attached to the stock has been lost

Note 1 A fee may be determined under the Act, s 88 for this provision.

Note 2 If a form is approved under the Act, s 89 for this provision, the form must be used.

Note 3 An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) The applicant for a special purpose tag must tag the stock for which it was approved with the tag as soon as possible after the tag is approved.

Maximum penalty: 10 penalty units.

- (3) An offence against subsection (2) is a strict liability offence.

Division 2.5 Offences

30 Alteration of approved tags

- (1) A person must not alter an approved tag if the alteration changes or modifies the identification particulars recorded or shown on the tag.
- (2) The Act, section 46 applies to this section.

Note Altering an approved tag in a way that contravenes subsection (1) is an offence against the Act, section 46.

31 Selling altered approved tag etc

- (1) A person commits an offence if—
- (a) the person sells or supplies an approved tag; and
 - (b) the tag has been altered in a way that changes or modifies the identification particulars recorded or shown on the tag.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

32 Transfer of approved tags

- (1) A person commits an offence if—
- (a) the person uses an approved tag to tag stock; and
 - (b) the stock is not the stock for which the tag was approved.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

33 Transfer of stock with approved tags

- (1) A person commits an offence if—
- (a) the person is the owner of stock tagged with an approved tag; and
 - (b) the tag is approved in relation to a holding; and
 - (c) the stock is at a holding other than the holding for which the tag is approved; and
 - (d) the stock is not normally kept at the holding for which the tag is approved.

Maximum penalty: 10 penalty units.

- (2) Subsection (1) does not apply if—
- (a) the approved tag for the stock is an NLIS device; and
 - (b) the person tells the authorised administrator, in writing, no later than 48 hours after the stock has been moved from the holding in relation to which the tag has been approved, of the location where the stock is normally kept.

Note If a form is approved under the Act, s 89 for this provision, the form must be used.

- (3) Subsection (1) does not apply if the stock is at—
- (a) a sale yard for sale; or

(b) an abattoir for slaughter.

34 Removal of approved tag

(1) A person commits an offence if the person removes an approved tag from tagable stock.

Maximum penalty: 10 penalty units.

(2) This section does not apply to the removal of a tag from an animal—

(a) for an animal that has been slaughtered at an abattoir—if the final inspection under section 35 has been completed; or

(b) for an animal that has died—unless the person performing the final inspection reasonably suspects that the death was due to an exotic or endemic disease; or

(c) if the tag is damaged and a replacement tag is being immediately attached to the animal; or

(d) if an authorised person removes the tag.

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

Division 2.6 Miscellaneous

35 Inspection of slaughtered stock—Act, s 48

(1) The director may inspect the carcass of an animal that has been slaughtered at an abattoir.

(2) Without limiting subsection (1), if the director reasonably believes that appropriate health standards for the animal have not been met, the director may—

(a) take samples or seize the carcass for testing or other investigation of the health of the animal; or

- (b) direct the person in charge of the abattoir to do anything to the carcass to enable investigation of the health of the animal; or
 - (c) dispose of the carcass; or
 - (d) direct the person in charge of the abattoir to dispose of the carcass as directed.
- (3) Inspection of a carcass under this section is a final inspection of the carcass for the Act, section 48 (Tags to remain with carcasses).
- (4) A person commits an offence if the person fails to take all reasonable steps to comply with a direction given to the person under subsection (2) (b) or (d).

Maximum penalty: 10 penalty units.

36 Property identifier codes

- (1) The chief executive may, on application by a relevant person, approve an identifier code for a property (a *property identifier code*) that identifies—
- (a) the holding where the stock is located; or
 - (b) for stock that is sold or sent for sale or slaughter—
 - (i) the holding where the stock was most recently kept for a period of more than 28 days; or
 - (ii) another property determined by the chief executive for the stock.

Note 1 A fee may be determined under the Act, s 88 for this provision.

Note 2 If a form is approved under the Act, s 89 for this provision, the form must be used.

- (2) A property identifier code may be approved for a holding, saleyard, abattoir, or public land.
- (3) The chief executive must record details of each approved property identifier code on the register.

- (4) In this section:
- relevant person* means—
- (a) an owner or occupier of a holding; or
 - (b) an owner or person in charge of a saleyard or abattoir; or
 - (c) a stock and station agent; or
 - (d) an occupier or manager of an area of public land.
- (5) For this Act, a reference to a *property identifier code* in relation to a property outside the ACT is a reference to a property identifier code (however described) approved under a corresponding law applying where the property is located.

37 Evidentiary certificates

- (1) In a proceeding for an offence against this regulation a certificate signed by the chief executive stating any of the following is evidence of the matters stated:
- (a) that a tag had or had not been approved in relation to particular stock or a particular place;
 - (b) that a property identifier code had or had not been approved for a holding, saleyard, abattoir or public land.
- (2) Without limiting subsection (1), a certificate may state a matter by reference to a date or period.

38 Reviewable decisions

The following are reviewable decisions:

- (a) a decision of the chief executive under section 7 to refuse to approve a tag;
- (b) a decision of the chief executive under section 8 to refuse to approve a way of using a tag;

- (c) a decision of the chief executive under section 9 to refuse to approve an NLIS device;
- (d) a decision of an authorised person under section 29 to refuse to approve a special purpose tag;
- (e) a decision of the chief executive under section 36 to refuse to approve a property identifier code.

39 Notice of reviewable decisions

- (1) If a decision maker makes a reviewable decision mentioned in section 38, the decision maker must give written notice of the decision to each person entitled to apply for review of the decision.
- (2) The notice must comply with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).
- (3) In particular, the notice must tell the person—
 - (a) that the person may apply to the administrative appeals tribunal for review of the decision, and how the application must be made; and
 - (b) about the options available under other Territory laws to have the decision reviewed by a court or the ombudsman.

Part 3 Poultry—Newcastle diseases

40 Definitions—pt 3

In this part:

chicken means a domestic fowl.

commercial poultry flock means a managed group of—

- (a) at least 1 000 chickens; or
- (b) chickens kept for the sale of their eggs (whether for resale or hatching); or
- (c) chickens grown for commercial meat processing.

vaccinate means to vaccinate with an approved vaccine.

41 Codes of practice

- (1) The Minister may approve a code of practice for the prevention and control of Newcastle disease.
- (2) An approved code of practice may apply, adopt or incorporate an instrument, as in force from time to time.

Note 1 The text of an applied, adopted or incorporated instrument, whether applied as in force from time to time or as at a particular time, is taken to be a notifiable instrument if the operation of the Legislation Act, s 47 (5) or (6) is not disappplied (see s 47 (7)).

Note 2 A notifiable instrument must be notified under the Legislation Act.

- (3) An approval is a disallowable instrument.

Note A disallowable instrument must be notified and presented to the Legislative Assembly, under the Legislation Act.

42 Vaccination of commercial poultry flock

- (1) A person commits an offence if—
 - (a) the person is in charge of a commercial poultry flock; and
 - (b) the person fails to vaccinate each chicken in the flock.Maximum penalty: 10 penalty units.
- (2) An offence against subsection (1) is a strict liability offence.
- (3) This section does not apply in relation to a chicken that is less than the age prescribed by an approved code of practice in relation to the vaccine.

43 Offence to introduce unvaccinated commercial poultry flock

- (1) A person commits an offence if—
 - (a) the person brings a commercial poultry flock, or part of a commercial poultry flock into the ACT; and
 - (b) the flock, or part of the flock, has not been vaccinated.Maximum penalty: 10 penalty units.
- (2) This section does not apply in relation to a chicken that is less than the age prescribed by an approved code of practice in relation to the vaccine.

44 Seller declaration

- (1) This section applies if a person—
 - (a) owns a commercial poultry flock; and
 - (b) sells the flock or part of the flock to someone else (the *buyer*).

- (2) The person must give the buyer a written statement (a *seller declaration*) that includes details of the vaccination of the flock (including the kind of vaccines given, the dates of vaccination and the age of the poultry when vaccinated).

Note If a form is approved under the Act, s 89 for this provision, the form must be used.

- (3) A person who gives a seller declaration must give the director a copy of the declaration no later than 14 days after giving it to the buyer.
- (4) A person commits an offence if the person fails to comply with subsection (2) or (3).

Maximum penalty: 10 penalty units.

Note Giving false information is an offence against the Criminal Code, s 338.

- (5) An offence against this section is a strict liability offence.

45 Testing of vaccinated commercial poultry flock

- (1) The person in charge of a commercial poultry flock must, using a diagnostic test of a representative sample of the flock, test for signs of a Newcastle disease in accordance with any approved code of practice.
- (2) A person commits an offence if the person fails to comply with subsection (1).

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.

46 Records keeping

- (1) The owner of a commercial poultry flock must keep records in accordance with an applicable approved code of practice.

- (2) Without limiting subsection (1), the owner must keep records of the following:
- (a) the kind of vaccine given to the flock;
 - (b) the dates of vaccination of the flock;
 - (c) where the vaccinations took place;
 - (d) the age of the chickens vaccinated;
 - (e) the number of chickens vaccinated;
 - (f) testing of the chickens done for section 45;
 - (g) any seller declarations given for the flock or part of the flock.
- (3) The owner must keep a record under this section for 3 years after the day the record is made.
- (4) A person commits an offence if the person fails to comply with subsection (1), (2) or (3).
- Maximum penalty: 10 penalty units.
- (5) An offence against this section is a strict liability offence.

Part 4 Honey Bees

47 Definitions—pt 4

In this part:

brood means the eggs, larvae and pupae of a bee colony.

broodbox means the part of a frame hive—

- (a) through which bees may enter the hive; and
- (b) where a queen bee may live; and
- (c) that may contain brood; and
- (d) that can be identified as the structure that makes up the lower box of the hive.

frame hive means a beehive in which a bee colony may live that—

- (a) contains only moveable frames that can be readily and separately removed for examination; or
- (b) contains—
 - (i) at least 1 honey superbox; and
 - (ii) at least 1 broodbox; and
 - (iii) devices fitted immediately above a broodbox that excludes any queen bee from entering the honey superboxes of the hive.

honey superbox means a removable part of a frame hive—

- (a) in which bees store honeycomb and honey within removable frames; and
- (b) that can be identified as a box separated from a broodbox within a frame hive by a device preventing any queen bee entering the part from the broodbox.

48 Honey bees to be kept in frame hives

- (1) A person must not keep honey bees other than in a frame hive.
Maximum penalty: 10 penalty units.
- (2) An offence against this section is a strict liability offence.

49 Honey and honeycomb not to be exposed

- (1) A person commits an offence if—
 - (a) the person is either—
 - (i) a beekeeper; or
 - (ii) a person who harvests honey from a frame hive; and
 - (b) the person permits bees to access honey or honeycomb in a way other than by allowing bees to enter a frame hive through a broodbox.
Maximum penalty: 10 penalty units.
- (2) An offence against this section is a strict liability offence.

Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this regulation.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- must (see s 146)
- penalty unit (see s 133)
- person
- State
- under
- working day.

Note 3 Terms used in this regulation have the same meaning that they have in the *Animal Diseases Act 2005* (see Legislation Act, s 148). For example, the following terms are defined in the *Animal Diseases Act 2005*, dict:

- approved tag
- authorised person
- director
- endemic disease
- exotic disease
- holding
- register
- tag
- tagable stock.

approved code of practice, means a code of practice approved under section 41.

approved manufacturer, in relation to a tag, means a person who is declared to be an approved manufacturer under the Act, section 43 (Approved manufacturers).

approved NLIS device means an NLIS device approved under section 9.

approved vaccine means a vaccine approved by the director for this regulation.

authorised administrator means the authorised administrator under the *Stock Diseases Regulation 2004* (NSW), section 35.

brood, for part 4—see section 47.

broodbox, for part 4—see section 47.

chicken, for part 3—see section 40.

commercial poultry flock, for part 3—see section 40.

corresponding law means a law of a State for the regulation of stock.

frame hive, for part 4—see section 47.

honey super-box, for part 4—see section 47.

identification particulars—

- (a) for an approved NLIS device, means—
 - (i) the property identifier code of the holding, saleyard, abattoir, or public land in relation to which the device is approved; and
 - (ii) the characters that enable each animal to be individually identified; and
- (b) for stock tagged with an approved NLIS device, means the particulars mentioned in paragraph (a) for the NLIS device.

NLIS means the system known as the national livestock identification system agreed to by the Commonwealth and the States under a resolution of the Primary Industries Ministerial Council of 2 October 2003.

NLIS device means a device capable of carrying NLIS livestock identification particulars.

property identifier code—see section 36.

stock and station agent means a person who holds a licence as a stock and station agent under the *Agents Act 2003* or under a corresponding law.

vaccinate, for part 3—see section 40.

Endnotes

1 Notification

Notified under the Legislation Act on 13 July 2006.

2 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.
