

1993
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for the Environment, Land and Planning)

Animal Diseases Bill 1993

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**SCHEDULE
ACTS REPEALED**

1993
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for the Environment, Land and Planning)

Animal Diseases Bill 1993

**A BILL
FOR**

**An Act to provide for the control of endemic and
exotic diseases of animals and for related purposes**

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

PART I—PRELIMINARY

Short title

- 5 1. This Act may be cited as the *Animal Diseases Act 1993*.

Commencement

2. (1) Section 1 and this section commence on the day on which this
Act is notified in the *Gazette*.
(2) The remaining provisions commence on a day fixed by the Minister
10 by notice in the *Gazette*.
(3) If a provision referred to in subsection (2) has not commenced
before the end of the period of 6 months commencing on the day on which

this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

Repeal

3. The Acts specified in the Schedule are repealed.

5 Interpretation

4. In this Act, unless the contrary intention appears—

“abattoir” means any premises used for the slaughter of stock;

“animal” includes—

- (a) a carcass of an animal; and
- 10 (b) an egg, embryo, ova or sperm, or other product, of an animal from which another animal could be produced;

but does not include a human being;

“animal product” includes—

- 15 (a) a part of an animal or any secretion or thing which has at any time formed part of an animal; and
- (b) a product or thing made or derived from, or including, a part of an animal;

“approved manufacturer” means a manufacturer declared under section 34 to be an approved manufacturer of tags;

20 “approved tag”, in relation to defined stock, means a tag—

- (a) manufactured by an approved manufacturer and bearing the number allocated to the owner of the stock under section 33; or
- (b) issued to the owner under section 40;

25 “defined stock” means stock declared under section 30 to be defined stock;

“determined fee” means the fee determined under section 63 for the purposes of the provision in which the expression occurs;

30 “Director” means the Director of Veterinary Hygiene appointed under section 5;

“endemic stock disease” means a disease declared under section 21 to be an endemic stock disease;

“endemic stock disease quarantine area” means an area declared under section 23 to be an endemic stock disease quarantine area;

“exotic disease” means a disease declared under section 12 to be an exotic disease;

5 “exotic disease quarantine area” means an area declared under section 14 to be an exotic disease quarantine area;

“identity card” means an identity card issued under section 10;

“infected” means—

(a) in relation to an animal—

10 (i) suffering from an endemic stock disease or an exotic disease;

(ii) having been in contact, during the previous 12 months, with an animal suffering from an endemic stock disease or an exotic disease; and

15 (iii) having been kept, pastured or driven on land on which an animal suffering from an endemic stock disease or an exotic disease has been kept or pastured during the previous 12 months; or

20 (b) in relation to premises or a thing—where an animal suffering from an endemic stock disease or an exotic disease has been on the premises or in contact with the thing, during the previous 12 months;

“inspector” means an inspector appointed under section 8;

25 “market value”, in relation to an animal, premises or other thing, means the value that the animal, premises or thing would have had if, at the time at which the assessment for compensation purposes is made—

(a) it had not been infected with a disease; and

(b) it had been offered for sale on the open market;

30 “premises” includes—

(a) a building or part of a building;

(b) a tent, stall or other structure, whether permanent or temporary;

35 (c) land (including water on land) whether or not appurtenant to a building; and

(d) a vehicle;

"register" means the register established and maintained under section 31;

5 "stock" means any horse, cattle, sheep, swine, goat, dog or any animal declared under section 21 to be stock;

"tag" means a tag or label attached to the tails of stock;

"tag number" means a tag number allocated under section 33 or 40;

"this Act" includes the regulations;

10 "travelling stock" means stock that is being moved on any land other than land on which the stock is ordinarily kept or pastured;

"Tribunal" means the Australian Capital Territory Administrative Appeals Tribunal;

"vehicle" includes a caravan, trailer or vessel;

15 "veterinary surgeon" means a person who is registered or licensed as a veterinary surgeon under a law of a State or Territory.

PART II—ADMINISTRATION

Director of Veterinary Hygiene

5. (1) The Minister shall, by instrument, appoint a public servant to be the Director of Veterinary Hygiene.

20 (2) If a person appointed as Director ceases to be a public servant, the person ceases to hold office as Director.

Acting Director

6. (1) The Minister may, by instrument, appoint a public servant to act as Director—

25 (a) during a vacancy in the office of Director, whether or not an appointment has previously been made to the office; or

(b) during any period, or during all periods, when the Director is absent from the Territory or is, for any reason, unable to perform the functions of the office;

30 but a person acting during a vacancy shall not continue to so act for more than 12 months.

(2) If a person appointed to act as Director ceases to be a public servant, the person ceases to hold office as acting Director.

(3) Anything done by or in relation to a person purporting to act under subsection (1) is not invalid on the ground that—

- (a) the occasion for the person's appointment had not arisen;
- 5 (b) there is a defect or irregularity in connection with the person's appointment;
- (c) the person's appointment had ceased to have effect; or
- (d) the occasion for the person to act had not arisen or had ceased.

Delegation

10 7. The Director may, by instrument, delegate any of his or her powers or functions under this Act to a public servant.

Appointment of inspectors

8. The Minister may, by instrument, appoint persons to be inspectors for the purposes of this Act.

Exercise of inspector's powers

15 9. The Director has and may exercise the powers of an inspector under this Act.

Identity cards

20 10. The Minister shall issue to the Director and to each inspector an identity card, specifying the name and appointment, and on which appears a recent photograph, of the Director or inspector, as the case requires.

Return of identity cards

11. A person issued with an identity card under section 10 shall not, without reasonable excuse, fail to return his or her identity card upon ceasing to be Director or an inspector.

25 Penalty: \$100.

PART III—EXOTIC DISEASES OF ANIMALS

Declaration of exotic diseases

12. (1) The Minister may, by notice in the *Gazette*, declare a disease to be an exotic disease for the purposes of this Act.

30 (2) A declaration takes effect—

- (a) on the day on which the declaration is published in the *Gazette*; or
- (b) if a later day is specified in the declaration—on that day.

(3) A declaration is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Notification of diseases

5 13. (1) A person who has reasonable grounds for believing that an animal is infected with an exotic disease, shall notify the Minister in writing.

(2) If the Director or an inspector has reasonable grounds for believing that an animal is infected with an exotic disease, he or she shall notify the Minister in writing.

10 (3) If the owner or person in charge of an animal has reasonable grounds for believing that the animal is infected with an exotic disease, he or she shall cause the animal to be separated from any other animals that are not infected with the disease.

(4) A person who, without reasonable excuse, contravenes subsection (1) or (3) is guilty of an offence.

15 Penalty: \$5,000 or imprisonment for 6 months.

Exotic disease quarantine area

14. (1) The Minister may, by instrument, declare a specified area of land to be an exotic disease quarantine area, if he or she has reasonable grounds for believing that—

- 20 (a) an animal is infected with an exotic disease; and
(b) the declaration is necessary for the purpose of preventing the spread of the exotic disease.

(2) A declaration shall—

- 25 (a) contain a diagram depicting the area of land to which the declaration is to relate; and

(b) specify—

- 30 (i) the exotic disease referred to in paragraph (1) (a);
(ii) the classes of animals to which the declaration applies;
(iii) the restrictions on entry to, exit from and movement within the area;
(iv) the restrictions on the sale of an animal, animal product or other specified thing, which has, during a specified period, been kept within or travelled through the area; and
35 (v) where the declaration is to have effect for a limited period—the period.

(3) The Minister shall publish a declaration in the *Gazette* and in a daily newspaper published and circulating in the Territory.

5 (4) A declaration takes effect on the day specified in the declaration as the day on which it takes effect and, unless sooner revoked, ceases to have effect on the expiration of the period, if any, specified in the declaration as the period for which the declaration has effect.

(5) A declaration is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Importation restriction

10 15. (1) The Minister may, by instrument, declare an area of land outside the Territory to be subject to an importation restriction, if he or she has reasonable grounds for believing that—

- (a) an animal in an area outside the Territory is infected with an exotic disease; and
- 15 (b) the declaration is necessary for the purpose of preventing the spread of the exotic disease.

(2) A declaration shall—

- (a) contain a diagram depicting the area of land to which the declaration is to relate; and
- 20 (b) specify—
 - (i) the exotic disease referred to in paragraph (1) (a);
 - (ii) the classes of animals to which the declaration applies;
 - 25 (iii) the restrictions on importing into the Territory an animal, animal product or other specified thing which has, during a specified period, been kept within or travelled through the area;
 - (iv) the restrictions on the sale within the Territory, of an animal, animal product or other specified thing, which has, during a specified period, been kept within or travelled through the area; and
 - 30 (v) where the declaration is to have effect for a limited period—the period.

(3) The Minister shall publish a declaration in the *Gazette* and in a daily newspaper published and circulating in the Territory.

35 (4) A declaration takes effect on the day specified in the declaration as the day on which it takes effect and, unless sooner revoked, ceases to have

effect on the expiration of the period, if any, specified in the declaration as the period for which the declaration has effect.

(5) A declaration is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

5 Ministerial direction

16. (1) If the Minister believes on reasonable grounds that it is necessary to do so for the purpose of controlling the spread of an exotic disease, he or she may, by instrument, direct—

- (a) an inspector to seize an animal, animal product, a vehicle or thing;
- 10 (b) the owner or person in charge of premises, an animal product or a thing, to take such action as is specified in the direction for the purposes of disinfecting the premises, animal product or thing;
- (c) the owner or person in charge of an animal to inoculate the animal, or to take other specified action for the purposes of producing an immunity to the exotic disease in the animal; or
- 15 (d) an inspector or a specified person to take such other action as the Minister considers necessary.

(2) A person, other than an inspector, specified in a direction under subsection (1) shall not, without reasonable excuse, contravene the direction.

20

Penalty: \$5,000 or imprisonment for 6 months.

Destruction of animals and other property

17. (1) If the Minister believes on reasonable grounds that it is necessary to do so for the purpose of controlling the spread of an exotic disease, he or she may, by instrument, direct an inspector or a specified person to destroy premises (other than a dwelling), any animal, animal product, crop, pasture or any other thing in accordance with the direction.

25

(2) The Minister shall cause a copy of a direction under subsection (1) to be given to the owner or person apparently in charge of the premises, animal, animal product, crop, pasture or thing—

30

(a) before the direction is carried out unless—

- (i) after reasonable search and inquiry the owner or person apparently in charge of the premises, animal, animal product, crop, pasture or thing can not be found; and
- 35 (ii) the Minister considers that the circumstances require the immediate destruction of the premises, animal, animal product, crop, pasture or thing; or

(b) in any other case—as soon as practicable after the direction is carried out.

(3) A person, other than an inspector, specified in a direction under subsection (1) shall not, without reasonable excuse, contravene the direction.

Penalty: \$5,000 or imprisonment for 6 months.

Compensation for animals or property destroyed

18. (1) The owner of—

(a) an animal, that has died, the death of which has been certified by a veterinary surgeon as having been caused by an exotic disease; or

(b) an animal, any premises or any other thing which has been destroyed pursuant to an order made under section 17;

may, within 90 days, or such further period as the Minister approves, of the death of the animal or the destruction of the premises or other thing, apply to the Minister for compensation.

(2) An application for compensation shall be in a form approved by the Minister.

(3) On receipt of an application under subsection (1), the Minister shall determine the amount of compensation payable to the applicant, being an amount not exceeding the market value of the animal, premises or other thing.

Removal of refuse

19. (1) If the Minister believes on reasonable grounds that it is necessary to do so for the purpose of preventing or controlling the spread of an exotic disease, he or she may, by instrument, direct the owner or occupier of premises within an exotic disease quarantine area, to remove specified refuse from the premises.

(2) A direction under subsection (1) shall specify the date by which, and the manner in which, the refuse is to be removed.

(3) A person shall not, without reasonable excuse, contravene a direction under subsection (1).

Penalty: \$5,000 or imprisonment for 6 months.

(4) If a person contravenes a direction under subsection (1), the Minister may direct an inspector to cause the refuse to be removed from the premises.

(5) The reasonable costs incurred by an inspector pursuant to subsection (4) are a debt payable to the Territory by the owner or occupier, as the case requires, to whom the direction relates.

Court proceedings

5 20. While a declaration under section 14 is in force, the declaration or a direction under Part III with respect to an exotic disease to which the declaration relates—

- (a) shall not be challenged or called into question in any court; and
- 10 (b) is not subject to prohibition, mandamus or injunction in any court on any account.

PART IV—ENDEMIC DISEASES OF STOCK

Division 1—General

Declaration of stock and endemic stock diseases

21. (1) The Minister may, by notice in the *Gazette*—

- 15 (a) declare any animal to be stock for the purposes of this Act;
- (b) declare any disease to be an endemic stock disease for the purposes of this Act; and
- (c) declare any endemic stock disease to be a disease for the purposes of section 28.

20 (2) A declaration takes effect—

- (a) on the day on which the declaration is published in the *Gazette*; or
- (b) if a later day is specified in the declaration—on that day.

(3) A declaration is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

25 Notification of diseases

22. (1) A person who has reasonable grounds for believing that stock is infected with an endemic stock disease, shall notify the Minister in writing.

30 (2) Where the Director or an inspector has reasonable grounds for believing that stock is infected with an endemic stock disease, he or she shall notify the Minister in writing.

(3) If the owner or person in charge of stock has reasonable grounds for believing that the stock is infected with an endemic stock disease, he or

she shall cause the stock to be separated from any other stock that are not infected with the disease.

(4) A person who, without reasonable excuse, contravenes subsection (1) or (3) is guilty of an offence.

5 Penalty: \$5,000.

Endemic stock disease quarantine area

23. (1) The Minister may, by instrument, declare a specified area of land to be an endemic stock disease quarantine area, if he or she has reasonable grounds for believing that—

- 10 (a) an animal is infected with an endemic stock disease; and
 (b) the declaration is necessary for the purpose of preventing the spread of the endemic stock disease.

(2) A declaration shall—

- 15 (a) contain a diagram depicting the area of land to which the declaration is to relate; and
 (b) specify—
 (i) the endemic stock disease referred to in paragraph (1) (a);
 (ii) the classes of stock to which the declaration applies;
 (iii) the restrictions on entry to, exit from and movement within
 the area;
 (iv) the restrictions on the sale of stock, an animal product or
 other specified thing, which has, during a specified period,
 been kept within or travelled through the area; and
 (v) where the declaration is to have effect for a limited
 period—the period.

(3) The Minister shall publish a declaration in the *Gazette* and in a daily newspaper published and circulating in the Territory.

30 (4) A declaration commences on the day on which it is published in the *Gazette* and, unless sooner revoked, ceases to have effect on the expiration of the period, if any, specified in the declaration as the period for which the declaration has effect.

(5) A declaration is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Ministerial direction

35 24. (1) If the Minister believes on reasonable grounds that it is necessary to do so for the purpose of controlling the spread of an endemic stock disease, he or she may, by instrument, direct—

- (a) an inspector to seize stock, an animal product, a vehicle or thing;
- (b) the owner or person in charge of premises, an animal product or a thing, to take such action as is specified in the direction for the purposes of disinfecting the premises, animal product or thing;
- 5 (c) the owner or person in charge of stock to inoculate the stock, or to take other specified action for the purposes of producing an immunity to the endemic stock disease in the stock; or
- (d) an inspector or a specified person to take such other action as the Minister considers necessary.

- 10 (2) A person, other than an inspector, specified in a direction under subsection (1) shall not, without reasonable excuse, contravene the direction.

Penalty: \$5,000 or imprisonment for 6 months.

Detaining infected stock

- 15 25. (1) If an inspector has reasonable grounds for believing that any stock is infected with an endemic stock disease, he or she may, in writing, direct the owner or person in charge of the stock to detain the stock on specified premises.

- 20 (2) A person shall not, without reasonable excuse, contravene a direction under subsection (1).

Penalty: \$5,000.

Restriction on stock movements

26. A person shall not, without reasonable excuse, cause or permit stock—

- 25 (a) to enter or leave an endemic stock disease quarantine area; or
- (b) where an inspector has directed that the stock be detained on specified premises under section 25—to enter or leave those premises;

except with the written consent of the Minister.

- 30 Penalty: \$5,000.

Destruction of infected stock

- 35 27. (1) If the Minister believes on reasonable grounds that it is necessary to do so for the purpose of controlling the spread of an endemic stock disease, he or she may, by instrument, direct an inspector or a specified person to destroy—

- (a) specified infected stock;
- (b) a specified infected animal product; or
- (c) a specified infected thing;

in accordance with the direction.

5 (2) The Minister shall cause a copy of a direction under subsection (1) to be given to the owner or person apparently in charge of the stock, animal product or thing—

(a) before the direction is carried out unless—

- 10 (i) after reasonable search and inquiry the owner or person apparently in charge of the stock, animal product or thing can not be found; and
- (ii) the Minister considers that the circumstances require the immediate destruction of the stock, animal product or thing; or

15 (b) in any other case—as soon as practicable after the direction is carried out.

(3) A person, other than an inspector, specified in a direction under subsection (1) shall not, without reasonable excuse, contravene the direction.

20 Penalty: \$5,000 or imprisonment for 6 months.

Compensation for stock destroyed

28. (1) The owner of stock which has been destroyed pursuant to section 27, may within 90 days, or such further period as the Minister approves, of the death of the stock, apply to the Minister for compensation.

25 (2) An application for compensation shall be in a form approved by the Minister.

30 (3) On receipt of an application under subsection (1), the Minister shall, if satisfied that the destroyed stock was infected with a disease declared under paragraph 21 (1) (c) to be a disease for the purposes of this section, determine the amount of compensation payable to the applicant, being an amount not exceeding half the market value of the stock.

Division 2—Stock tags

Certain stock to be tagged

35 29. (1) A person shall not, without reasonable excuse, travel or transport defined stock to or from an abattoir or a saleyard or any other place for sale unless the stock is tagged with an approved tag or, if the stock is

being travelled or transported within a period of 28 days after the sale of that stock, with an approved tag—

- (a) bearing the number allocated to the previous owner of that stock; or
- 5 (b) issued to that owner under section 40.

Penalty: \$1,000.

- 10 (2) For the purposes of subsection (1), defined stock is to be taken to be tagged if it is tagged with a tag granted or issued under a law of a State or another Territory relating to the granting or issuing of tags for stock of that kind.

Defined stock

30. (1) The Minister may, by notice published in the *Gazette*, declare specified stock to be defined stock for the purposes of this Act.

(2) A declaration takes effect—

- 15 (a) on the day on which the declaration is published in the *Gazette*; or
- (b) if a later day is specified in the declaration—on that day.

(3) A declaration is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Register

- 20 31. (1) The Director shall establish and maintain a register of tag numbers.

(2) The Director may—

- (a) at the written request of the owner of defined stock in respect of which a tag number is allocated; or
- 25 (b) of the Director's own accord;

make such alterations to particulars in the register as are necessary.

Applications

32. (1) A person who is the owner of defined stock may apply to the Director for a tag number in respect of that stock.

- 30 (2) An application under subsection (1) shall be—
 - (a) in a form approved by the Director; and
 - (b) lodged with the Director with the determined fee.

(3) Where defined stock is owned by 2 or more persons, application for a tag number may be made jointly or by any 1 of those persons.

Allocation of tag numbers

5 33. The Director shall, if satisfied that an applicant under subsection 32 (1) is the owner of defined stock to which the application relates—

- (a) allocate to the applicant a tag number in respect of that stock; and
- (b) enter the following particulars in the register:
 - (i) the number allocated under paragraph (a);
 - (ii) the name of the owner of the defined stock;
 - 10 (iii) the name of the manager (if any) of the stock;
 - (iv) the telephone and facsimile numbers (if any) of the owner and manager;
 - (v) the location of the property where the stock is kept;
 - 15 (vi) the postal and residential addresses of the owner and of the manager.

Approved manufacturers

34. The Director shall, by notice published in the *Gazette*, declare a manufacturer to be an approved manufacturer of tags for the purposes of this Act.

20 Manufacture and issue of tags

35. (1) An approved manufacturer shall not, without reasonable excuse, issue a tag unless the issue is authorised in writing by the Director.

(2) A person other than an approved manufacturer shall not, without reasonable excuse, make a tag.

25 Penalty: \$1,000.

Tagging defined stock

36. (1) A person shall not, without reasonable excuse, tag defined stock with approved tags otherwise than in the manner declared by the Minister by notice published in the *Gazette*.

30 Penalty: \$1,000.

(2) A declaration takes effect—

- (a) on the day on which the declaration is published in the *Gazette*; or

(b) if a later day is specified in the declaration—on that day.

(3) A declaration is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Alteration of tags

- 5 37. A person shall not alter an approved tag without reasonable excuse.

Penalty: \$1,000.

Tags to remain with carcasses

- 10 38. (1) A person who is a manager or other person in charge of an abattoir shall keep, or cause to be kept, a tag with the carcass from which it was removed until after the final inspection of the carcass on the slaughter floor by a person authorised under the *Meat Act 1931*.

(2) A person who is a manager or other person in charge of an abattoir shall not, without reasonable excuse, contravene subsection (1).

- 15 Penalty: \$1,000.

Records of untagged stock

- 20 39. (1) A person who is a manager or other person in charge of an abattoir shall not, without reasonable excuse, fail to keep a record of any defined stock delivered to the abattoir for slaughter that is not tagged in accordance with subsection 36 (1).

Penalty: \$2,000.

(2) A record kept under subsection (1) shall be in a form approved by the Director.

Emergency tags

- 25 40. (1) Where—

(a) defined stock is required to be tagged under section 29; and

(b) a tag bearing the number allocated under section 33 to the owner or the previous owner is not readily available;

- 30 the Director shall, on payment of the determined fee, issue to the owner of that stock, or his or her agent, a tag bearing a number allocated under this section.

(2) Where the Director has issued a tag under subsection (1), he or she shall enter the particulars specified under paragraph 33 (b) in the register.

(3) The Director may allocate numbers for the purposes of this section.

Cancellation of tag numbers

5 41. (1) Where the Director believes on reasonable grounds that a tag number is no longer required for the purposes of compliance with this Act, the Director may, by notice in writing served on the person to whom the tag number was allocated, require that person, within 28 days after the date of the notice, to show cause why the tag number should not be cancelled.

 (2) Where a notice has been served on a person under subsection (1), the Director may—

10 (a) after the expiration of the period of 28 days after the date of the notice; and

 (b) after taking into account any representation made by the person; cancel the tag number.

 (3) Where the Director cancels a tag number under subsection (2), he or she shall—

15 (a) remove the entry in the register made in respect of that number; and

 (b) revoke the authority given to an approved manufacturer in relation to that number.

20 (4) The revocation of an authorisation under subsection (3) takes effect on the date of cancellation of the tag number under subsection (2).

Evidentiary certificates

25 42. In proceedings for an offence against subsection 29 (1), a certificate signed by the Director stating that at a specified time or during a specified period, a specified person had or had not been allocated a tag number, is evidence of the matters so stated.

PART V—ENFORCEMENT

Division 1—Preliminary

Interpretation

43. In this Part—

30 “disease” means an exotic disease or an endemic stock disease.

Division 2—Powers of inspectors

Entry to premises

44. (1) If an inspector believes on reasonable grounds that it is necessary—

- (a) to ascertain whether an animal, animal product or thing is, or premises are, infected with a disease;
 - (b) in order to control the spread of a disease; or
 - (c) otherwise for the purposes of this Act;
- 5 the inspector may enter any premises—
- (d) other than a dwelling—at any reasonable time;
 - (e) with the consent of the occupier;
 - (f) pursuant to a warrant issued under section 46; or
 - (g) if the inspector believes, on reasonable grounds, that the
- 10 circumstances are of such seriousness and urgency as to require immediate entry to the premises without the authority of a warrant.
- (2) Where an inspector enters premises pursuant to subsection (1), he or she may enter the premises, with such assistance and by such force as is reasonable.
- 15 (3) An inspector who enters premises under subsection (1) is not authorised to remain on the premises if, on request by—
- (a) the owner, or person in charge, of an animal on the premises; or
 - (b) the owner or occupier of the premises;
- the inspector does not show his or her identity card to that person.
- 20 (4) For the purpose of exercising the power under subsection (1) in relation to a vehicle, an inspector may stop and detain the vehicle.

Consent to entry

45. (1) Before obtaining the consent of a person for the purposes of paragraph 44 (1) (e), an inspector shall—
- 25 (a) produce his or her identity card; and
- (b) inform that person that he or she may refuse to give consent.
- (2) Where an inspector obtains the consent of a person for the purposes of paragraph 44 (1) (e), the inspector shall ask that person to sign a written acknowledgment—
- 30 (a) of the fact that the person has been informed that he or she may refuse to give consent;
- (b) of the fact that the person has voluntarily given consent; and
- (c) of the day on which, and the time at which, that consent was given.

(3) An entry by an inspector under paragraph 44 (1) (e) by virtue of the consent of a person, is not lawful unless that person voluntarily consented to the entry.

5 (4) Where it is material, in any proceedings, for a court to be satisfied of the voluntary consent of a person for the purposes of paragraph 44 (1) (e) and an acknowledgment, in accordance with subsection (2), signed by the person is not produced in evidence, the court shall assume, unless the contrary is proved, that the person did not voluntarily give such a consent.

10 Search warrants

46. (1) Where an information on oath is laid before a Magistrate alleging that an inspector has reasonable grounds for believing that an animal, animal product or thing on specified premises is infected with a disease and the information sets out those grounds, the Magistrate may issue
15 a search warrant authorising an inspector named in the warrant, with such assistance and by such force as is necessary and reasonable, to enter the premises for the purpose of—

(a) searching for and seizing any animal, animal product or thing that
20 the inspector believes on reasonable grounds is infected with a disease; and

(b) exercising any of the powers referred to in section 47.

(2) A Magistrate shall not issue a warrant under subsection (1) unless—

25 (a) the informant or some other person has given to the Magistrate, either orally or by affidavit, such further information (if any) as the Magistrate requires concerning the grounds on which the issue of the warrant is being sought; and

(b) the Magistrate is satisfied that there are reasonable grounds for issuing the warrant.

30 (3) There shall be stated in a warrant issued under this section—

(a) a statement of the purpose for which the warrant is issued, which shall include a reference to the disease in relation to which the entry is authorised;

35 (b) whether the entry is authorised to be made at any time of the day or night or during specified hours of the day or night; and

(c) a date upon which the warrant ceases to have effect (not being later than 7 days after the date of issue of the warrant).

Inspectors powers—general

47. (1) An inspector who enters premises in accordance with section 44 may, if he or she believes on reasonable grounds that it is necessary to do so for the purposes of this Act—

- 5 (a) inspect the premises and any thing on the premises (including a document or records);
- (b) examine any animal on the premises;
- (c) take copies of, or an extract from, any document or records relating to—
 - 10 (i) an infected animal;
 - (ii) an animal which is kept or has been kept within an exotic disease quarantine area or an endemic stock disease quarantine area; or
 - (iii) defined stock;
- 15 (d) take photographs or make films or videotapes of the premises or any animal, animal product or thing on the premises;
- (e) if the inspector believes on reasonable grounds that an animal, an animal product, a vehicle or a thing may be infected with a disease—
 - 20 (i) seize the animal, animal product, vehicle or thing or direct that it be detained on the premises;
 - (ii) take a sample from the animal, animal product, vehicle or thing; or
 - 25 (iii) use a test approved by the Director to determine the existence of the disease;
- (f) if the inspector believes on reasonable grounds that an animal, an animal product, a vehicle or a thing may be connected with an offence—seize the animal, animal product, vehicle or thing;
- 30 (g) direct any person on the premises to give the inspector such assistance as is reasonable to enable the inspector to exercise his or her powers under this Act; or
- (h) direct any person on the premises—
 - 35 (i) to make available any documents kept on the premises;
 - (ii) to furnish information that the inspector believes on reasonable grounds is connected with an offence; or

(iii) to answer questions.

(2) A person is not required to comply with a direction under paragraph (1) (h) unless the inspector giving the direction informs the person that a contravention of the direction constitutes an offence.

5 (3) A person shall not, without reasonable excuse, contravene any direction given, or fail to provide any information, documents or records requested, by an inspector under subsection (1).

Penalty: \$5,000 or imprisonment for 6 months.

(4) In subsection (1)—

10 "offence" means—

(a) any conduct engaged in, whether constituted by an act or omission, which there are reasonable grounds for believing constitutes an offence under this Act; and

15 (b) an offence (within the meaning of paragraph (a)) which there are reasonable grounds for believing has been, or will be, committed.

Inspectors powers—travelling stock

20 48. (1) Where an inspector believes on reasonable grounds that the owner, or person in charge, of travelling stock is contravening this Act, he or she may detain the travelling stock until the provisions of this Act are complied with.

(2) Where an inspector believes, on reasonable grounds that it is necessary to do so for the purposes of this Act, he or she may—

25 (a) detain travelling stock for the purposes of examination to determine whether the stock is or might be infected with a disease; or

(b) in writing, direct the owner, or person in charge, of travelling stock—

(i) to travel the stock to specified premises; or

30 (ii) to hold the stock on specified premises subject to any conditions specified in the direction.

(3) A person shall not, without reasonable excuse, contravene a direction under paragraph (2) (b).

35 (4) Where an inspector has directed a person to hold stock on specified premises under paragraph (2) (b), the person shall not, without

reasonable excuse, cause or permit any stock to enter or leave those premises except with the written consent of the Minister.

Penalty: \$5,000.

Public notices

5 49. (1) The Minister may display such notices as he or she considers necessary for the purposes of this Act, within or near the boundary of an endemic stock disease quarantine area or an exotic disease quarantine area, on a public street which enters such an area, or at the border of the Territory.

10 (2) A notice displayed under subsection (1) shall be in a form approved by the Minister.

(3) A person shall not, without reasonable excuse, damage, interfere with or remove a notice displayed in accordance with subsection (1), except with the written consent of the Minister.

15 Penalty: \$1,000.

Non-compliance with directions and cost recovery

50. (1) If a person contravenes a direction given by an inspector under this Act, the inspector may arrange for action to be taken to give effect to the direction.

20 (2) The reasonable costs incurred by an inspector under subsection (1), are a debt payable to the Territory by the person to whom the direction was given.

Division 3—Offences generally

Contravention of restrictions

25 51. A person shall not, without reasonable excuse, contravene a restriction specified in a declaration under section 14, 15 or 23.

Penalty: \$5,000 or imprisonment for 6 months.

Obstruction of inspectors

30 52. A person shall not, without reasonable excuse, hinder or obstruct an inspector in the execution of his or her duty under this Act.

Penalty: \$5,000 or imprisonment for 6 months.

Self-incrimination

35 53. (1) A person is not excused from making available documents or records, furnishing information or answering questions in compliance with this Act on the ground that such action would tend to incriminate the person.

5 (2) If, before producing any document, record or information or answering any question in compliance with this Act, a person states that the document, record, information or answer may tend to incriminate him or her, then any document, record, information or answer obtained under this Act, or any information or thing obtained directly or indirectly as a consequence of that document, record, information or answer, is not admissible in evidence against the person in criminal proceedings other than proceedings relating to—

- 10 (a) the refusal or failure to produce any document, record or information or to answer any question; or
- (b) the furnishing of any document, record, information or answer that is false or misleading.

Spreading disease

15 54. (1) A person shall not, without reasonable excuse, knowingly communicate a disease or disease agent to any animal.

Penalty: \$5,000 or imprisonment for 6 months.

(2) In this section—

20 “disease agent” means any prion, virus, rickettsia, bacterium, protozoon, fungus, helminth, arthropod, insect or other pathogen or organism that is capable of causing a disease in an animal.

Use of vaccines etc.

55. A person shall not, without reasonable excuse, use on any stock—

- 25 (a) a virus, vaccine or other biological product containing living organisms; or
- (b) for the purposes of diagnosis, a biological product which does not contain living organisms;

except with the written consent of the Minister.

Penalty: \$5,000 or imprisonment for 6 months.

30 Abandoning infected animals or carcasses

56. The owner or person in charge of an infected animal or a carcass of an animal shall not, without reasonable excuse—

- (a) abandon, or permit to stray, the infected animal; or
- 35 (b) leave, or cause or permit to be left, the carcass of the animal, on or adjacent to a public road or in or adjacent to a creek or water hole.

Penalty: \$5,000.

Selling infected animals

- 5 57. A person shall not, without reasonable excuse, knowingly sell or offer for sale or purchase an animal infected with a disease, except with the written consent of the Minister and in accordance with any conditions specified in the consent.

Penalty: \$5,000 or imprisonment for 6 months.

Interference with structures

- 10 58. A person shall not, without reasonable excuse, damage or interfere with a gate, fence or other structure being used to contain animals for the purposes of this Act, except with the written consent of the Minister and in accordance with any conditions specified in the consent.

Penalty: \$500.

Corporations—penalties

- 15 59. Where a body corporate is convicted of an offence against this Act, the penalty that the court may impose is a fine not exceeding 5 times the maximum amount that, but for this section, the court could impose as a pecuniary penalty for that offence.

PART VI—MISCELLANEOUS**Certificate of freedom from disease**

- 20 60. (1) The owner or occupier of premises may apply to the Minister in writing for a declaration that the premises are not infected with a specified exotic disease or endemic stock disease.

- 25 (2) If the Minister is satisfied that the premises to which an application under subsection (1) relates are not infected with the specified exotic disease or endemic stock disease, he or she shall, in writing, certify the premises to be free of the disease on the day of the certification.

(3) In proceedings for an offence against this Act, a certificate issued under this section, stating that on a specified day, specified premises were free of a specified disease, is evidence of the matters so stated.

30 Review of decisions

61. (1) Application may be made to the Tribunal for a review of a decision of the Minister—

- 35 (a) making or refusing to make a determination under subsection 18 (3) or 28 (3);
(b) making a direction under section 24;

(c) refusing to give consent under section 26, subsection 48 (4) or 49 (3) or section 55, 57 or 58; or

(d) refusing to issue a certificate under section 60.

5 (2) Application may be made to the Tribunal for a review of a decision of the Director—

(a) refusing to allocate a tag number under section 33; or

(b) cancelling a tag number under section 41.

Notification of decisions

10 62. (1) Where the Minister or the Director makes a decision of the kind referred to in subsection 61 (1) or (2), the Minister or the Director, as the case requires, shall, within 28 days after the date of the decision, give notice in writing of the decision to the person in respect of whom the decision was made.

(2) A notice shall—

15 (a) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, an application may be made to the Tribunal for a review of the decision; and

20 (b) except where subsection 26 (11) of that Act applies—include a statement to the effect that a person whose interests are affected by the decision may request a statement pursuant to section 26 of that Act.

(3) The validity of a decision shall not be taken to be affected by a failure to comply with subsection (2).

Determination of fees

25 63. The Minister may, by notice published in the *Gazette*, determine fees for the purposes of this Act.

Regulations

64. (1) The Executive may make regulations, not inconsistent with this Act, prescribing matters—

30 (a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of subsection (1), the regulations may make provision in relation to—

35 (a) the prohibition of the entry into the Territory of any infected stock;

- (b) the conditions under which stock may be brought into the Territory;
- (c) the inspection of stock brought into the Territory;
- 5 (d) the prevention of the introduction of endemic stock diseases into, or the spread of endemic stock diseases within, the Territory;
- (e) the regulation and control of the use of semen in the artificial insemination of stock;
- (f) the detention, treatment, inoculation or isolation of any stock in an endemic stock disease quarantine area;
- 10 (g) the movement of any stock within, into, or out of, any endemic stock disease quarantine area;
- (h) the seizure and destruction of infected stock;
- (j) the subjection of stock to such restrictions or remedial measures as are deemed necessary to prevent the introduction or spread of endemic stock diseases;
- 15 (k) the treatment or disinfection of any premises, animal product, carcass or thing likely to spread endemic stock diseases;
- (m) the branding of infected stock;
- 20 (n) the closing of any road in or adjacent to an endemic stock disease quarantine area or the erection of fences or gates across any road for the purpose of regulating or preventing the movement of stock; and
- (p) the methods of diagnosis and discovery of endemic stock diseases.
- 25 (3) The regulations may prescribe penalties not exceeding \$1,000 for offences against the regulations.

PART VII—TRANSITIONAL

Interpretation

65. In this Part—

30 “commencement day” means the day on which this Act (other than sections 1 and 2) commences;

“repealed Act” means the *Stock Diseases Act 1933*.

Stock

35 66. A declaration under paragraph 4 (1) (b) of the repealed Act, in force immediately before the commencement day, shall on and after that day be taken to be a declaration under paragraph 21 (1) (a) of this Act.

Continuation of appointment of Director and inspectors

5 67. (1) A person who held the office of Director of Veterinary Hygiene under section 4A of the repealed Act immediately before the commencement day, shall on and after that day be taken to have been appointed, subject to the same terms and conditions, under section 5 of this Act.

10 (2) A person who was an Inspector under section 5 of the repealed Act immediately before the commencement day, shall on and after that day be taken to have been appointed, subject to the same terms and conditions, under section 8 of this Act.

 (3) An identification card issued under section 5A of the repealed Act to an Inspector referred to in subsection (2), shall on and after the commencement day be taken to be an identity card issued under section 10 of this Act.

15 **Direction for the destruction of stock**

 68. An order under subsection 8 (1) of the repealed Act that has not been executed before the commencement day, shall continue in force on and after that day, and section 8 of the repealed Act shall continue to apply on and after that day in relation to the order.

20 **Compensation for stock**

25 69. Where, before the commencement day, stock was destroyed under subsection 8 (1) of the repealed Act and agreement had not been reached between the owner and an inspector under subsection 8 (3) of the repealed Act before that day, subsection 8 (3) of the repealed Act continues to apply on and after that day in relation to that stock.

Declaration of defined stock

 70. A declaration under section 11B of the repealed Act, in force immediately before the commencement day, shall on and after that day be taken to be a declaration under section 30 of this Act.

30 **Continuing register**

 71. The register to be kept under section 31 of this Act is a continuation of the register kept under section 11C of the repealed Act.

Application for a stock tag number

35 72. An application under section 11D of the repealed Act before the commencement day that has not been determined before that day, shall on and after that day be taken to be an application under section 32 of this Act.

Stock tag numbers

 73. A tag number allocated under section 11E or 11M of the repealed Act that has not been cancelled before the commencement day, shall on and

after that day be taken to have been allocated under section 33 or 40 of this Act, respectively.

Manufacturers

- 5 74. A declaration under section 11F of the repealed Act, in force immediately before the commencement day, shall on and after that day be taken to be a declaration under section 34 of this Act.

Authority to issue tags

- 10 75. An authorisation under subsection 11G (1) of the repealed Act, in force immediately before the commencement day, shall on and after that day be taken to be an authorisation under subsection 35 (1) of this Act.

Manner of tagging defined stock

76. A declaration under section 11H of the repealed Act, in force immediately before the commencement day, shall on and after that day be taken to be a declaration under section 36 of this Act.

15 Cancellation of tag numbers

- 20 77. Where a notice under subsection 11N (1) of the repealed Act was served before the commencement day and the period of 28 days specified in the notice has not expired before that day, the notice shall on and after the commencement day be taken to be a notice under subsection 41 (1) of this Act and to have been served under subsection 41 (1) of this Act.

Evidentiary certificates

78. Section 11P of the repealed Act continues to apply in relation to a contravention, before the commencement day, of subsection 11A (1) of the repealed Act.

SCHEDULE

Section 3

ACTS REPEALED

Stock Diseases Act 1933

Stock Diseases Act 1939

Stock Diseases Act 1958

Stock Diseases Act 1959

Stock Diseases Act 1976

Stock Diseases (Amendment) Act 1988

Stock Diseases (Amendment) Act 1991