



Australian Capital Territory

# **Animal Diseases Act 2005**

**A2005-18**

**Republication No 5**

**Effective: 14 December 2007 – 26 December 2007**

Republication date: 14 December 2007

Last amendment made by A2007-45

Not all amendments are in force: see last endnote

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Animal Diseases Act 2005* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 14 December 2007. It also includes any amendment, repeal or expiry affecting the republished law to 14 December 2007.

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

### Kinds of republications

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

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

The status of this republication appears on the bottom of each page.

### Editorial changes

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

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

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

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Animal Diseases Act 2005

## Contents

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	Page	
<b>Part 1</b>	<b>Preliminary</b>	
1	Name of Act	2
3	Object of Act	2
4	Dictionary	2
5	Notes	2
6	Offences against Act—application of Criminal Code etc	3
<b>Part 2</b>	<b>Director</b>	
7	Appointment of director	4
8	Delegation by director	4
<b>Part 3</b>	<b>Exotic and endemic diseases of animals</b>	
<b>Division 3.1</b>	<b>General</b>	
9	Meaning of <i>infected</i>	5

---

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14/12/07

Animal Diseases Act 2005  
Effective: 14/12/07-26/12/07

contents 1

## Contents

---

	Page
10	6
11	6
<b>Division 3.2</b>	<b>Exotic diseases</b>
12	7
13	7
14	7
15	8
<b>Division 3.3</b>	<b>Endemic diseases</b>
16	10
17	10
18	11
<b>Division 3.4</b>	<b>Quarantine areas</b>
19	12
20	12
21	13
22	13
23	13
24	14
25	14
26	15
<b>Division 3.5</b>	<b>Destruction of animals and other things</b>
27	15
28	16
29	16
30	17
31	18
<b>Division 3.6</b>	<b>Offences generally</b>
32	18
33	19
34	19
35	20
36	21

	Page
<b>Part 4</b>	<b>Stock tags</b>
37	Meaning of <i>stock</i> for pt 4 22
38	Tagable stock 22
39	Register of tag numbers 22
40	Correction of register 22
41	Applications for tag numbers 22
42	Tag numbers 23
43	Approved manufacturers 23
44	Approved tags 23
45	Unauthorised manufacture and issue of tags 24
46	Alteration of tags 24
47	Travelling tagable stock 24
48	Tags to remain with carcasses 25
49	Records of untagged stock 25
50	Cancellation of tag numbers 26
51	Destruction of tag after cancellation 26
52	Evidentiary certificates 27
<b>Part 5</b>	<b>Restricted feed material—ruminants</b>
53	Definitions—pt 5 28
54	Analysts for pt 5 29
55	Feed statements 29
56	Offence—manufacture of ruminant food 30
57	Offences—sale or supply of bulk or bagged compounded feed and meal 30
58	Offence—obscuring of statements 32
59	Offence—removal etc of feed tags 32
60	Offences—feeding restricted feed material to ruminants 33
61	Procedure if samples taken for pt 5 34
62	Evidence of analysis for pt 5 34
<b>Part 6</b>	<b>Enforcement</b>
<b>Division 6.1</b>	<b>General</b>
63	Definitions—pt 6 35

## Contents

---

	Page	
<b>Division 6.2</b>	<b>Authorised people</b>	
64	Appointment of authorised people	35
65	Identity cards	36
<b>Division 6.3</b>	<b>Powers of authorised people</b>	
66	Power to enter premises	36
67	Production of identity card	38
68	Consent to entry	38
69	General powers on entry to premises	39
70	Power to require name and address	41
71	Power to seize things	41
72	Additional powers for travelling stock	43
73	Additional powers for honeybees	43
<b>Division 6.4</b>	<b>Search warrants</b>	
74	Warrants generally	44
75	Warrants—application made other than in person	45
76	Search warrants—announcement before entry	46
77	Details of search warrant to be given to occupier etc	47
78	Occupier entitled to be present during search etc	47
<b>Division 6.5</b>	<b>Return and forfeiture of things seized</b>	
79	Receipt for things seized	48
80	Access to things seized	48
81	Moving things to another place for examination or processing under search warrant	48
82	Return of things seized	50
<b>Division 6.6</b>	<b>Miscellaneous</b>	
83	Damage etc to be minimised	51
84	Compensation for exercise of enforcement powers	51
<b>Part 7</b>	<b>Review of decisions</b>	
85	Reviewable decisions	53
86	Review of decisions	54

---

	Page	
<b>Part 8</b>		
<b>Miscellaneous</b>		
87	Noncompliance with directions and cost recovery	55
88	Determination of fees	55
89	Approved forms	55
90	Regulation-making power	56
<b>Dictionary</b>		58
<b>Endnotes</b>		
1	About the endnotes	62
2	Abbreviation key	62
3	Legislation history	63
4	Amendment history	63
5	Earlier republications	65
6	Uncommenced amendments	66







Australian Capital Territory

## Animal Diseases Act 2005

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An Act to provide for the control of endemic and exotic diseases of animals,  
and for other purposes

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Animal Diseases Act 2005*.

### 3 Object of Act

The object of this Act is to protect human health and markets for animal products by—

- (a) preventing and controlling outbreaks of endemic and exotic animal diseases in the ACT; and
- (b) assisting in the prevention and control of outbreaks of endemic and exotic animal diseases in other jurisdictions.

### 4 Dictionary

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

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

For example, the signpost definition, ‘*stock*, for part 4 (Stock tags)—see section 37.’ means that the term ‘stock’ is defined in that section for part 4.

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

### 5 Notes

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

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

## 6 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

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

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

### 7 Appointment of director

- (1) The chief executive may appoint a public servant as the Director of Veterinary Hygiene.
- (2) A public servant may only be appointed as the director if the person is a veterinary surgeon.

*Note 1* For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

*Note 2* In particular, an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

### 8 Delegation by director

The director may delegate the director's functions under this Act or another territory law to a public servant or police officer.

*Note* For the making of delegations and the exercise of delegated functions, see the Legislation Act, pt 19.4.

## **Part 3**                      **Exotic and endemic diseases of animals**

### **Division 3.1**              **General**

#### **9**                      **Meaning of *infected***

- (1) For this Act, an animal is *infected* with a disease if it is suffering from the disease.
- (2) For subsection (1), an animal is taken to be suffering from a disease if there is a reasonable basis for suspecting the animal is infected with the disease.

**Example**

a veterinary surgeon reports evidence of symptoms of a disease

*Note*      An example is part of the Act, 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) For this Act, premises are *infected* with a disease if there is a reasonable basis for suspecting the premises are infected with the disease.

**Example**

animals infected with the disease have recently been on the premises

- (4) For this Act, a thing (including an animal product) is *infected* with a disease if there is a reasonable basis for suspecting the thing is infected with the disease.

**Examples**

- 1    the thing has recently been in contact with an animal infected with the disease
- 2    the animal product is a product of an animal infected with the disease

## **10 Declarations under pt 3**

- (1) A declaration under this part may provide for its commencement on or before the declaration's notification day.

*Note* This subsection provides express authority for a declaration to commence on or before its notification day (see Legislation Act, s 73 (2) (d) (General rules about commencement)).

- (2) However—
- (a) a declaration may not provide for a commencement date or time that would result in the declaration commencing before it is made; and
  - (b) a declaration may not commence before it is notified under the Legislation Act unless the Minister is satisfied that the circumstances are of such seriousness and urgency that its commencement before notification is necessary to prevent a disease becoming established, or spreading, in the ACT.
- (3) If a declaration commences before it is notified under the Legislation Act, the Minister must give notice of the declaration to the required media as soon as possible after the declaration is made.

## **11 Certificate of freedom from disease**

- (1) An owner or occupier of premises may apply to the director, in writing, for a certificate that the premises are not infected with an exotic disease or endemic disease.

*Note* If a form is approved under s 89 for a certificate, the form must be used.

- (2) If the director is satisfied that the premises are not infected with the disease, the director must, in writing, certify the premises to be free of the disease on the day of the certification.
- (3) In a proceeding for an offence against this Act, a certificate given under this section is evidence of the matters stated in it.

## **Division 3.2 Exotic diseases**

### **12 Declaration of exotic disease**

- (1) The Minister may, in writing, declare a disease to be an exotic disease for this Act.
- (2) A declaration is a disallowable instrument.

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

### **13 Notification of exotic disease**

- (1) If a person has reasonable grounds for believing that an animal is infected with an exotic disease, the person must immediately tell the director in writing.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) If the owner or person in charge of an animal has reasonable grounds for believing that the animal is infected with an exotic disease, the person must immediately separate the animal from any other animal that is not infected with the disease.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) Subsection (2) does not apply to an authorised person.

### **14 Directions to control spread of exotic disease**

- (1) The director may, in writing, direct—
  - (a) an authorised person to seize an animal, animal product, vehicle or other thing; or
  - (b) the owner or person in charge of premises, an animal product or other thing to take stated action to decontaminate the premises, animal product or thing; or

- (c) the owner or person in charge of an animal to—
  - (i) take stated action to inoculate the animal or otherwise produce an immunity to the disease in the animal; or
  - (ii) take stated action to treat the animal or protect its welfare; or
- (d) an authorised person or anyone else to take any other stated action that the director considers necessary.

*Note* The Legislation Act, s 170 and s 171 deal with the application of the privilege against selfincrimination and client legal privilege.

- (2) The director may give a direction under subsection (1) only if the director has reasonable grounds for believing that it is necessary to give the direction to prevent or control the spread of an exotic disease.
- (3) If an authorised person has reasonable grounds for suspecting that an animal is infected with an exotic disease, the authorised person may, in writing, direct the owner or person in charge of the animal to keep it at stated premises for a stated reasonable time.
- (4) A person commits an offence if the person fails to take reasonable steps to comply with a direction given to the person under this section.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (5) Subsection (4) does not apply to an authorised person.

## **15 Import restrictions**

- (1) The Minister may, in writing, declare an area outside the ACT to be subject to an import restriction, if the Minister has reasonable grounds for believing that—
  - (a) an animal in the area is infected with an exotic disease; and



(b) the declaration is necessary to prevent the spread of the disease.

(2) A declaration is a disallowable instrument.

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

(3) A declaration must state—

(a) the animals to which the declaration applies; and

(b) the disease in relation to which the declaration is made; and

(c) the area to which the declaration applies; and

(d) the restrictions on importing into the ACT an animal, animal product or other thing that has, at any time during a stated period, been in the area; and

(e) the restrictions on sale in the ACT of an animal, animal product or other thing that has, at any time during a stated period, been in the area; and

(f) if the declaration is to have effect for a limited period—the period.

(4) The Minister must publish the declaration in a daily newspaper published and circulating in the ACT.

(5) A person commits an offence if the person contravenes a restriction in a declaration under this section.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

## Division 3.3 Endemic diseases

### 16 Declaration of endemic disease

- (1) The Minister may, in writing, declare a disease to be an endemic disease for this Act.
- (2) The Minister may, in writing, declare an endemic disease to be a compensable disease for section 28 (Compensation for animal etc destroyed—endemic disease).
- (3) A declaration under this section is a disallowable instrument.

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

### 17 Notification of endemic disease

- (1) If a person has reasonable grounds for believing that an animal is infected with an endemic disease, the person must immediately tell the director in writing.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) If the owner or person in charge of an animal has reasonable grounds for believing that the animal is infected with an endemic disease, the person must separate the animal from any other animal that is not infected with the disease.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) Subsection (2) does not apply to an authorised person.

## **18 Directions to control spread of endemic disease**

- (1) The director may, in writing, direct—
- (a) an authorised person to seize an animal, animal product, vehicle or other thing; or
  - (b) the owner or person in charge of premises, an animal product or other thing to take stated action to decontaminate the premises, animal product or thing; or
  - (c) the owner or person in charge of an animal to—
    - (i) take stated action to inoculate the animal or otherwise produce an immunity to the disease in the animal; or
    - (ii) take stated action to treat the animal or protect its welfare; or
  - (d) an authorised person or anyone else to take any other stated action that the director considers necessary.

*Note* The Legislation Act, s 170 deals with the application of the privilege against selfincrimination.

- (2) The director may give a direction under subsection (1) only if the director has reasonable grounds for believing that it is necessary to give the direction to prevent or control the spread of an endemic disease.
- (3) If an authorised person has reasonable grounds for suspecting that an animal is infected with an endemic disease, the authorised person may, in writing, direct the owner or person in charge of the animal to keep it at stated premises for a stated reasonable time.
- (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 this section.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (5) Subsection (4) does not apply to an authorised person.

## **Division 3.4 Quarantine areas**

### **19 Exotic disease quarantine area**

- (1) The Minister may, in writing, declare a stated area to be an exotic disease quarantine area, if the Minister has reasonable grounds for believing that—
- (a) an animal is infected with an exotic disease; and
  - (b) the declaration is necessary to prevent the spread of the disease.
- (2) A declaration is a disallowable instrument.

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

- (3) The Minister must also publish the declaration in a daily newspaper published and circulating in the ACT.

### **20 Endemic disease quarantine area**

- (1) The Minister may, in writing, declare an area to be an endemic disease quarantine area, if the Minister has reasonable grounds for believing that—
- (a) an animal is infected with an endemic disease; and
  - (b) the declaration is necessary to prevent the spread of the disease.
- (2) A declaration is a disallowable instrument.

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

**21 Content of quarantine declarations**

A declaration under section 19 or section 20 must state—

- (a) the animals to which the declaration applies; and
- (b) the disease in relation to which the declaration is made; and
- (c) the area to which the declaration applies; and
- (d) the restrictions on entry to, leaving and movement within the area; and
- (e) the restrictions on sale in the ACT of an animal, animal product or other thing that has, at any time during a stated period, been in the area; and
- (f) if the declaration is to have effect for a limited period—the period.

**22 Offence—contravening restriction in quarantine declaration**

A person commits an offence if the person contravenes a restriction in a declaration under section 19 or section 20.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**23 Public notices for quarantine areas**

- (1) The chief executive may display any notices that the chief executive considers necessary for this Act within or near a boundary of a quarantine area, on a public street that enters a quarantine area, or a border of the ACT.

*Note* If a form is approved under s 89 for a notice, the form must be used.

- (2) A person commits an offence if—
  - (a) a notice is displayed under subsection (1); and

- (b) the person removes, alters, damages, defaces or covers the notice while the notice is in force.

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.
- (4) Subsection (2) does not apply if the person acts with the written consent of the chief executive.

## **24 Offence—movement of animals**

- (1) A person commits an offence if the person does something that enables an animal to enter or leave a quarantine area.

Maximum penalty: 50 penalty units.

- (2) This section does not apply if the person acts with the written approval of the chief executive or the director.

## **25 Removal of refuse from quarantine area**

- (1) The director may, in writing, direct the owner or occupier of premises in an exotic disease quarantine area to remove refuse from the premises.

- (2) The director may give a direction under subsection (1) only if the director has reasonable grounds for believing that it is necessary to give the direction to prevent or control the spread of an exotic disease.

- (3) The direction must state when and how the refuse is to be removed.

- (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 (1).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**26 Court proceedings about exotic disease declaration**

While a declaration under section 19 (Exotic disease quarantine area) is in force, the declaration or a direction under this part in relation to an exotic disease in relation to which the declaration is made—

- (a) must not be challenged or called into question in any court; and
- (b) is not subject to a prerogative order or injunction in any court.

**Division 3.5 Destruction of animals and other things**

**27 Destruction of infected animals etc—endemic disease**

- (1) The director may, in writing, direct an authorised person or someone else to destroy—
  - (a) an infected animal; or
  - (b) an infected animal product or other thing.
- (2) The director may give a direction under subsection (1) only if the director has reasonable grounds for believing that it is necessary to give the direction to prevent or control the spread of an endemic disease.
- (3) A direction may state how the animal or thing must be destroyed.
- (4) The director must give a copy of a direction to the owner or person apparently in charge of the animal or thing—
  - (a) before the direction is carried out unless—
    - (i) after reasonable search and inquiry the owner or person apparently in charge cannot be found; and
    - (ii) the director considers that the circumstances require the immediate destruction of the animal or thing; or

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

- (5) 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 (1).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (6) Subsection (4) and (5) do not apply to an authorised person.

**28 Compensation for animal etc destroyed—endemic disease**

- (1) This section applies if an animal or thing infected with a compensable endemic disease is destroyed under section 27.
- (2) The owner of the animal or thing may apply to the chief executive for compensation.
- (3) The application must be made within 90 days after the day the animal or thing is destroyed or any further period the chief executive allows.
- (4) The chief executive must decide an amount of compensation (not more than the market value of the animal or thing) payable to the owner.

**29 Destruction of infected animals etc—exotic disease**

- (1) The director may, in writing, direct an authorised person or someone else to destroy—
- (a) an infected animal; or
  - (b) an infected animal product or other thing; or
  - (c) infected premises (other than a dwelling).



- (2) The director may give a direction under subsection (1) only if the director has reasonable grounds for believing that it is necessary to give the direction to the prevention or control the spread of an exotic disease.
- (3) A direction may state how the animal, thing or premises must be destroyed.
- (4) The director must give a copy of a direction to the owner or person apparently in charge of the animal, thing or premises—
  - (a) before the direction is carried out unless—
    - (i) after reasonable search and inquiry the owner or person apparently in charge cannot be found; and
    - (ii) the director considers that the circumstances require the immediate destruction of the animal, thing or premises; or
  - (b) in any other case—as soon as practicable after the direction is carried out.
- (5) 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 (1).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (6) Subsection (4) and (5) do not apply to an authorised person.

### **30 Compensation for animal etc destroyed—exotic disease**

- (1) This section applies if an animal, premises or other thing has been destroyed under section 29.
- (2) The owner of the animal, premises or other thing may apply to the chief executive for compensation.

- (3) The application must be made within 90 days after the day the animal, premises or other thing is destroyed or any further period the chief executive allows.
- (4) The chief executive must decide an amount of compensation (not more than the market value of the animal, premises or other thing) payable to the owner.

### **31 Compensation for death of animal from exotic disease**

- (1) This section applies if—
  - (a) an animal has died; and
  - (b) a veterinary surgeon has certified that the death was caused by an exotic disease.
- (2) The owner of the animal may apply to the chief executive for compensation.
- (3) The application must be made within 90 days after the day the animal died or any further period the chief executive allows.
- (4) The chief executive must decide an amount of compensation (not more than the market value of the animal) payable to the owner.

## **Division 3.6 Offences generally**

### **32 Spreading disease**

- (1) A person commits an offence if the person does something that communicates a disease or disease agent to an animal.  
  
Maximum penalty: 50 penalty units, imprisonment for 6 months or both.
- (2) This section does not apply if the person acts with the written approval of the director.

- (3) In this section:

*disease agent* means any prion, virus, rickettsia, bacterium, protozoon, fungus, helminth, arthropod, insect or other pathogen or organism that can cause a disease in an animal.

### **33 Use of vaccines etc**

- (1) A person commits an offence if the person uses on an animal, or material derived from an animal—
- (a) a virus, vaccine or other biological product containing living organisms for treatment or prevention of an exotic or endemic disease; or
  - (b) a biological product containing something derived from a living organism for diagnosis of an exotic or endemic disease.

**Example for par (b)**

a protein extract derived as a testing agent

*Note* An example is part of the Act, 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).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) This section does not apply if the person acts with the written approval of the director.

### **34 Feeding of swill to controlled stock**

- (1) A person commits an offence if the person feeds swill to controlled stock.

Maximum penalty: 50 penalty units.

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

(3) In this section:

*controlled stock* means a pig or an animal declared by regulation to be controlled stock.

*properly rendered meal* means meal that has undergone a heating process approved under AS 5008:2001 to liberate fat.

*swill* means anything containing material of placental mammal origin (other than milk or milk by-products, properly rendered meal, or tallow).

### **35 Selling, disposing of or abandoning infected animals**

- (1) This section applies to a person who is the owner of, or is in charge of, an infected animal.
- (2) The person commits an offence if the person does any of the following:
  - (a) sells the animal;
  - (b) moves the animal from premises to other premises;
  - (c) intentionally abandons the animal, or allows the animal to stray;
  - (d) hides the animal;
  - (e) if the animal is dead—does either of the following:
    - (i) leaves the carcass (or any part of it) on or near a road, creek or waterhole;
    - (ii) destroys or otherwise disposes of the carcass (or any part of it) otherwise than in accordance with the director's instructions.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) This section does not apply if the person acts with the written approval of the director.

**36 Interference with structures securing infected animals**

- (1) A person commits an offence if—
- (a) the person damages, interferes with or removes a fence or other structure securing an animal; and
  - (b) the person is reckless about whether the animal is an infected animal.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) This section does not apply if the person acts with the written approval of the director.

## Part 4 Stock tags

### 37 Meaning of *stock* for pt 4

In this part:

*stock* means any horse, cattle, sheep, alpaca, swine, goat or other animal declared by regulation to be stock for this definition.

### 38 Tagable stock

- (1) The Minister may, in writing, declare stock to be tagable stock for this Act.
- (2) A declaration is a disallowable instrument.

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

### 39 Register of tag numbers

The chief executive must keep a register of tag numbers.

### 40 Correction of register

The chief executive may correct a mistake, error or omission in the register.

### 41 Applications for tag numbers

- (1) A person who owns tagable stock may apply to the director for a tag number for the stock.

*Note 1* If a form is approved under s 89 for an application, the form must be used.

*Note 2* A fee may be determined under s 88 for this provision.

- (2) If tagable stock is owned by 2 or more people, application for a tag number may be made jointly or by any of them.

**42 Tag numbers**

- (1) If satisfied that an applicant under section 41 (1) is the owner of tagable stock to which the application relates, the chief executive must—
  - (a) issue the applicant a tag number for the stock; and
  - (b) enter the following particulars in the register:
    - (i) the number issued under paragraph (a);
    - (ii) the name of the owner of the stock;
    - (iii) the name of the person in charge (if any) of the stock;
    - (iv) the telephone and fax numbers (if any) of the owner and person in charge;
    - (v) the postal and residential addresses of the owner and the person in charge;
    - (vi) the location of the property where the stock is kept.
- (2) The chief executive may enter any other information the chief executive considers relevant to contact the owner or person in charge of the stock.

**43 Approved manufacturers**

- (1) The chief executive may, in writing, declare a person to be an approved manufacturer of tags for this Act.
- (2) A declaration is a notifiable instrument.

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

**44 Approved tags**

The chief executive may approve a tag to be issued by an approved manufacturer.

**45 Unauthorised manufacture and issue of tags**

- (1) A person commits an offence if—
- (a) the person makes a tag; and
  - (b) the person is not an approved manufacturer.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) An approved manufacturer commits an offence if—
- (a) the manufacturer issues a tag; and
  - (b) the chief executive has not approved the issuing of the tag.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**46 Alteration of tags**

- (1) A person commits an offence if the person alters an approved tag in a way that contravenes a regulation that declares that this section applies to it.

Maximum penalty: 50 penalty units.

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

**47 Travelling tagable stock**

- (1) A person commits an offence if—
- (a) the person travels tagable stock to or from a place of sale; and
  - (b) the stock is not tagged with an approved tag for the owner of the stock.

Maximum penalty: 10 penalty units.



- (2) However, if the stock is being travelled within 28 days after the day of sale, the approved tag may be a tag bearing the number issued to the previous owner of the stock.
- (3) An offence against this section is a strict liability offence.
- (4) In this section:
- approved tag* includes a tag issued under a corresponding law.
- corresponding law* means—
- (a) a law of a State regulating stock; or
- (b) a law prescribed by regulation as a corresponding law for this definition.

#### **48 Tags to remain with carcasses**

A person in charge of an abattoir commits an offence if the person fails to take reasonable steps to ensure that the approved tag of an animal slaughtered at the abattoir is kept with the carcass until after the final inspection of the carcass under the regulations.

Maximum penalty: 100 penalty units.

#### **49 Records of untagged stock**

- (1) A person in charge of an abattoir must keep a record of tagable stock delivered to the abattoir for slaughter that is not tagged with an approved tag.

Maximum penalty: 50 penalty units.

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

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

**50 Cancellation of tag numbers**

- (1) This section applies if the chief executive believes, on reasonable grounds, that a tag number is not needed for compliance with this Act.
- (2) The chief executive may cancel the tag number, if the chief executive—
  - (a) gives the person who was issued the number a reasonable opportunity to give reasons why it should not be cancelled; and
  - (b) takes into account any reasons given by the person.
- (3) If the chief executive cancels a tag number, the chief executive must—
  - (a) note the cancellation in the register; and
  - (b) revoke any authority given to a manufacturer for the number; and
  - (c) tell the person who was issued the number about its cancellation.

**51 Destruction of tag after cancellation**

- (1) A person who is issued a tag number commits an offence if—
  - (a) the tag number is cancelled under section 50; and
  - (b) the person fails to destroy each tag with the number as soon as practicable after being told about the cancellation.

Maximum penalty: 50 penalty units

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

**52 Evidentiary certificates**

In a proceeding for an offence against section 47 (1) (Travelling tagable stock), a certificate signed by the chief executive stating that, at a time or during a period, a person had or had not been allocated a tag number or a stated tag number, is evidence of the matters stated.

## Part 5 Restricted feed material— ruminants

### 53 Definitions—pt 5

In this part:

*analyst* means an analyst under section 54.

*bag* includes a container or package.

*bulk*, for feed or meal, means sold or supplied other than in a bag.

*compounded feed* means feed that includes material of animal origin.

*feed tag* means a tag or label, with dimensions of at least 45mm by 120mm, that is designed to be attached to a bag.

*meal* means meat meal, bone meal, meat and bone meal, or any other meal of animal origin.

*non-restricted feed material statement*—see section 55.

*restricted feed material* means—

- (a) fishmeal; or
- (b) meal derived from poultry tissue; or
- (c) mammalian tissue or meal of mammalian origin other than—
  - (i) tallow; and
  - (ii) gelatine; and
  - (iii) milk, milk products or milk protein.

*restricted feed material statement*—see section 55.

**54 Analysts for pt 5**

The following people are analysts for this part:

- (a) the government analyst under the *Drugs of Dependence Act 1989*, section 183A (2);
- (b) anyone else appointed by the director.

*Note 1* For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

*Note 2* In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

**55 Feed statements**

In this part:

***non-restricted feed material statement*** means the following statement:

‘This product does not contain restricted feed material’.

***restricted feed material statement*** means any of the following statements:

- (a) ‘This product contains restricted feed material—DO NOT FEED TO CATTLE, SHEEP, GOATS, DEER OR OTHER RUMINANTS’;
- (b) ‘This product contains restricted feed material—DO NOT FEED TO RUMINANTS’;
- (c) ‘DO NOT FEED TO RUMINANTS’;
- (d) ‘For non-ruminant use only’.

**56 Offence—manufacture of ruminant food**

A person commits an offence if the person—

- (a) manufactures compounded feed or meal that includes restricted feed material; and
- (b) fails to take reasonable steps to prevent the inclusion of restricted feed material in the feed or meal; and
- (c) is reckless about whether the feed or meal is for ruminant use.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

**57 Offences—sale or supply of bulk or bagged compounded feed and meal**

(1) A person commits an offence if—

- (a) the person sells or supplies bulk feed or meal that contains restricted feed material; and
- (b) the invoice or other document about the sale or supply of the feed or meal does not contain a restricted feed material statement that complies with subsection (5).

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

(2) A person commits an offence if—

- (a) the person sells or supplies bulk feed or meal that does not contain restricted feed material; and
- (b) the invoice or other document about the sale or supply of the feed or meal does not contain a non-restricted feed material statement that complies with subsection (5).

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (3) A person commits an offence if—
- (a) the person sells or supplies a bag of compounded feed or meal that contains restricted feed material; and
  - (b) the bag does not have a statement on the bag, or a feed tag attached to the bag, that contains a restricted feed material statement complying with subsection (5).

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (4) A person commits an offence if—
- (a) the person sells or supplies in a bag compounded feed or meal that does not contain restricted feed material; and
  - (b) the bag does not have a statement on the bag, or a feed tag attached to the bag, that contains a non-restricted feed material statement that complies with subsection (5).

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (5) For this section, a statement must be—
- (a) prominently displayed; and
  - (b) in letters at least 3mm high; and
  - (c) in dark print on a light background.
- (6) This section does not apply to—
- (a) material sold or supplied as pet food;
  - (b) food sold or supplied for feeding to non-ruminant laboratory animals.

- (7) For this section:
- pet food*** includes food for aquarium fish and caged birds other than poultry.

**58 Offence—obscuring of statements**

A person commits an offence if—

- (a) the person alters, defaces, damages or otherwise interferes with an invoice or other document relating to compounded feed or meal; and
- (b) the interference alters, obscures or removes a restricted feed material statement or a non-restricted feed material statement contained in the invoice or other document.

Maximum penalty: 50 penalty units.

**59 Offence—removal etc of feed tags**

- (1) A person commits an offence if the person removes or alters a restricted feed material statement or a non-restricted feed material statement on a bag, or on a feed tag attached to a bag, that contains compounded feed or meal.

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if—
  - (a) the person alters, defaces, damages or otherwise interferes with a bag, or a feed tag attached to a bag, that contains compounded feed or meal; and
  - (b) the interference alters, obscures or removes a restricted feed material statement or non-restricted feed material statement on the bag or feed tag.

Maximum penalty: 50 penalty units.



**60 Offences—feeding restricted feed material to ruminants**

- (1) A person commits an offence if—
- (a) the person feeds restricted feed material to a ruminant; and
  - (b) is reckless about whether the material contains restricted feed material.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) A person commits an offence if—
- (a) the person feeds bulk compounded feed or bulk meal to a ruminant; and
  - (b) the invoice or other document about the sale or supply of the feed or meal contains a restricted feed material statement.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (3) A person commits an offence if—
- (a) the person feeds bagged compounded feed or bagged meal to a ruminant; and
  - (b) a statement on the bag, or a feed tag attached to the bag, contains a restricted feed material statement.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (4) This section does not apply to a person who feeds restricted feed material to a ruminant under an approval under subsection (5).
- (5) The director may, in writing, approve the feeding of restricted feed material to a ruminant for research purposes if the director is satisfied that the research is in the public interest.

**61 Procedure if samples taken for pt 5**

If an authorised person takes a sample for part 5 (Restricted feed material—ruminants), the authorised person must—

- (a) divide the sample into 3 parts; and
- (b) place each part in a separate container and seal the containers; and
- (c) attach to each container a label that is signed by the authorised person and states particulars of the date and time when, and the place where, the sample was taken by the authorised person; and
- (d) give 1 of the 3 containers to each of the following:
  - (i) the occupier of the premises;
  - (ii) an analyst;
  - (iii) the director.

**62 Evidence of analysis for pt 5**

- (1) An analyst may certify the following about a sample taken for this part:
  - (a) that the analyst analysed the sample from a sealed container to which was attached a label purporting to be signed by the authorised person named in the certificate and stating particulars of when, and the place where, the sample was taken by the authorised person;
  - (b) the analysis to which the sample was subjected;
  - (c) the results of the analysis.
- (2) In a prosecution for an offence against this part, a certificate under subsection (1) is evidence of the matters stated in it and of the facts on which they are based.

## **Part 6                      Enforcement**

### **Division 6.1              General**

#### **63              Definitions—pt 6**

In this part:

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

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

*disease* means an exotic disease or an endemic disease.

*occupier*, of premises, includes—

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

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

### **Division 6.2              Authorised people**

#### **64              Appointment of authorised people**

- (1) The chief executive may appoint a public servant to be an authorised person for this Act.

- (2) The director is an authorised person for this Act.

*Note 1* For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

*Note 2* In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

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

## **65 Identity cards**

- (1) The chief executive must give an authorised person (other than a police officer) an identity card stating the person's name and that the person is an authorised person.
- (2) The identity card must show—
- (a) a recent photograph of the person; and
  - (b) the card's date of issue and expiry; and
  - (c) anything else prescribed by regulation.
- (3) A person commits an offence if—
- (a) the person stops being an authorised person; and
  - (b) the person does not return the person's identity card to the chief executive as soon as practicable, but no later than 7 days after the day the person stops being an authorised person.

Maximum penalty: 1 penalty unit.

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

## **Division 6.3 Powers of authorised people**

### **66 Power to enter premises**

- (1) For this Act, an authorised person may—

- (a) at any reasonable time, enter premises if the authorised person suspects, on reasonable grounds—
    - (i) that an animal, animal product or thing at the premises is, or the premises are, infected with a disease; or
    - (ii) that entry to the premises is necessary to prevent or control the spread of disease; or
  - (b) at any reasonable time, enter premises that the public is entitled to use or that are open to the public (whether or not on payment of money); or
  - (c) at any time, enter premises with the occupier's consent; or
  - (d) enter premises in accordance with a search warrant; or
  - (e) at any time, enter premises if the authorised person believes, on reasonable grounds, that the circumstances are so serious and urgent that immediate entry to the premises without the authority of a search warrant is necessary.
- (2) However, subsection (1) (a) or (b) does not authorise entry into a part of premises that is being used only for residential purposes.
- (3) An authorised person may, without the consent of the occupier of premises, enter land around the premises to ask for consent to enter the premises.
- (4) For subsection (1), an authorised person may stop and detain a vehicle if the authorised person believes, on reasonable grounds, that it is necessary to stop and detain the vehicle—
- (a) to find out whether an animal, animal product or other thing in or on the vehicle is, or the vehicle is, infected with a disease; or
  - (b) to prevent or control the spread of disease.
- (5) For subsection (4), the authorised person—
- (a) may direct the driver of the vehicle to move the vehicle to a place (or another place) to which the public has access; and

- (b) may exercise the authorised person's powers in relation to the vehicle at the place; and
  - (c) must not detain the vehicle for longer than is reasonably necessary to exercise the authorised person's powers under this part.
- (6) To remove any doubt, an authorised person may enter premises under subsection (1) without payment of an entry fee or other charge.
- (7) For subsection (1) (e), the authorised person may enter the premises with any necessary and reasonable assistance and force.
- (8) In this section:
- at any reasonable time* includes at any time—
- (a) for subsection (1) (a)—during normal business hours; or
  - (b) for subsection (1) (b)—when the public is entitled to use the premises, or when the premises are open to or used by the public (whether or not on payment of money).

## **67 Production of identity card**

An authorised person must not remain at premises entered under this part if the authorised person does not produce his or her identity card when asked by the occupier.

## **68 Consent to entry**

- (1) When seeking the consent of an occupier of premises to enter premises under section 66 (1) (c), an authorised person must—
- (a) produce his or her identity card; and
  - (b) tell the occupier—
    - (i) the purpose of the entry; and

- (ii) that anything found and seized under this part may be used in evidence in court; and
  - (iii) that consent may be refused.
- (2) If the occupier consents, the authorised person must ask the occupier to sign a written acknowledgment (an *acknowledgment of consent*)—
  - (a) that the occupier was told—
    - (i) the purpose of the entry; and
    - (ii) that anything found and seized under this part may be used in evidence in court; and
    - (iii) that consent may be refused; and
  - (b) that the occupier consented to the entry; and
  - (c) stating the time and date when consent was given.
- (3) If the occupier signs an acknowledgment of consent, the authorised person must immediately give a copy to the occupier.
- (4) A court must find that the occupier did not consent to entry to the premises by the authorised person under this part if—
  - (a) the question arises in a proceeding in the court whether the occupier consented to the entry; and
  - (b) an acknowledgment of consent for the entry is not produced in evidence; and
  - (c) it is not proved that the occupier consented to the entry.

## **69 General powers on entry to premises**

- (1) An authorised person who enters premises under this part may, for this Act, do 1 or more of the following in relation to the premises or anything at the premises:
  - (a) inspect or examine;

- (b) take measurements or conduct tests;
- (c) take samples;
- (d) take photographs, films, or audio, video or other recordings;
- (e) take copies of, or an extract from, any document relating to—
  - (i) an infected animal; or
  - (ii) an animal that is kept or has been kept within an exotic disease quarantine area or an endemic disease quarantine area; or
  - (iii) tagable stock;
- (f) if the authorised person has reasonable grounds for suspecting that an animal, animal product or other thing may be infected with a disease—
  - (i) seize the animal, animal product or other thing or direct that it be detained on the premises; or
  - (ii) take a sample from the animal, animal product or other thing; or
  - (iii) use a test approved by the director to find out whether the animal, animal product or other thing is infected with the disease;
- (g) require the occupier, or anyone at the premises, to give the authorised person reasonable help to exercise a power under this part.

*Note* The Legislation Act, s 170 and s 171 deal with the application of the privilege against selfincrimination and client legal privilege.

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

Maximum penalty: 50 penalty units.



## **70 Power to require name and address**

- (1) An authorised person may require a person to state the person's name and home address if the authorised person believes, on reasonable grounds, that the person is committing or has just committed an offence against this Act.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

- (2) The authorised person must tell the person the reason for the requirement and, as soon as practicable, record the reason.
- (3) The person may ask the authorised person to produce his or her identity card for inspection by the person.
- (4) A person must comply with a requirement made of the person under subsection (1) if the authorised person—
- (a) tells the person the reason for the requirement; and
  - (b) complies with any request made by the person under subsection (3).

Maximum penalty: 10 penalty units.

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

*home address*, of a person, means the address of the place where the person usually lives.

## **71 Power to seize things**

- (1) An authorised person who enters premises under this part with the occupier's consent may seize anything at the premises if—
- (a) the authorised person is satisfied, on reasonable grounds, that the thing is connected with an offence against this Act; and

- (b) seizure of the thing is consistent with the purpose of the entry told to the occupier when seeking the occupier's consent.
- (2) An authorised person who enters premises under a warrant under this part may seize anything at the premises that the authorised person is authorised to seize under the warrant.
- (3) An authorised person who enters premises under this part (whether with the occupier's consent, under a warrant or otherwise) may seize anything at the premises if satisfied, on reasonable grounds, that—
  - (a) the thing is connected with an offence against this Act; and
  - (b) the seizure is necessary to prevent the thing from being—
    - (i) concealed, lost or destroyed; or
    - (ii) used to commit, continue or repeat the offence.
- (4) Having seized a thing, an authorised person may—
  - (a) remove the thing from the premises where it was seized (the *place of seizure*) to another place; or
  - (b) leave the thing at the place of seizure but restrict access to it.
- (5) A person commits an offence if—
  - (a) the person interferes with a seized thing, or anything containing a seized thing, to which access has been restricted under subsection (4); and
  - (b) the person does not have an authorised person's approval to interfere with the thing.

Maximum penalty: 50 penalty units.

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

**72 Additional powers for travelling stock**

- (1) If an authorised person believes, on reasonable grounds, that the owner of travelling stock is contravening this Act, the authorised person may hold the travelling stock until the Act is complied with.
- (2) If an authorised person believes, on reasonable grounds, that it is necessary to find out whether an animal is infected with a disease, or to control the spread of disease, the authorised person may—
  - (a) detain travelling stock for examination; or
  - (b) direct the owner of the stock, in writing—
    - (i) to travel the stock to stated premises; or
    - (ii) to hold the stock at stated premises and to comply with any conditions stated in the direction.
- (3) A person must take all reasonable steps to comply with a direction given to the person under subsection (2) (b).

Maximum penalty: 50 penalty units.

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

*owner*, of travelling stock, includes a person in charge of the stock.

**73 Additional powers for honeybees**

- (1) If an authorised person believes on reasonable grounds that a person keeping honeybees is engaging in conduct in contravention of a regulation, the authorised person may direct the person, in writing, to comply with the regulation.
- (2) A direction under subsection (1) must state a reasonable period for compliance.

- (3) If the conduct engaged in makes up the physical elements of an offence, the giving of a direction under subsection (1) does not prevent the bringing of proceedings for the offence.

## **Division 6.4 Search warrants**

### **74 Warrants generally**

- (1) An authorised person may apply to a magistrate for a warrant to enter premises.
- (2) The application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the authorised person gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.
- (4) The magistrate may issue a warrant only if satisfied there are reasonable grounds for suspecting—
- (a) there is a particular thing or activity connected with an offence against this Act; and
  - (b) the thing or activity—
    - (i) is, or is being engaged in, at the premises; or
    - (ii) may be, or may be engaged in, at the premises within the next 14 days.
- (5) The warrant must state—
- (a) that an authorised person may, with any necessary assistance and force, enter the premises and exercise the authorised person's powers under this part; and
  - (b) the offence for which the warrant is sought; and
  - (c) the thing that may be seized under the warrant; and

- (d) the hours when the premises may be entered; and
- (e) the date, within 14 days after the day of the warrant's issue, the warrant ends.

## **75 Warrants—application made other than in person**

- (1) An authorised person may apply for a warrant by phone, fax, radio or other form of communication if the authorised person considers it necessary because of—
  - (a) urgent circumstances; or
  - (b) other special circumstances.
- (2) Before applying for the warrant, the authorised person must prepare an application stating the grounds on which the warrant is sought.
- (3) The authorised person may apply for the warrant before the application is sworn.
- (4) After issuing the warrant, the magistrate must immediately fax a copy to the authorised person if it is practicable to do so.
- (5) If it is not practicable to fax a copy to the authorised person—
  - (a) the magistrate must—
    - (i) tell the authorised person the terms of the warrant; and
    - (ii) tell the authorised person the date and time the warrant was issued; and
  - (b) the authorised person must complete a form of warrant (the *warrant form*) and write on it—
    - (i) the magistrate's name; and
    - (ii) the date and time the magistrate issued the warrant; and
    - (iii) the warrant's terms.

- (6) The faxed copy of the warrant, or the warrant form properly completed by the authorised person, authorises the entry and the exercise of the authorised person's powers under this part.
- (7) The authorised person must, at the first reasonable opportunity, send to the magistrate—
  - (a) the sworn application; and
  - (b) if the authorised person completed a warrant form—the completed warrant form.
- (8) On receiving the documents, the magistrate must attach them to the warrant.
- (9) A court must find that a power exercised by the authorised person was not authorised by a warrant under this section if—
  - (a) the question arises in a proceeding in the court whether the exercise of power was authorised by a warrant; and
  - (b) the warrant is not produced in evidence; and
  - (c) it is not proved that the exercise of power was authorised by a warrant under this section.

## **76 Search warrants—announcement before entry**

- (1) An authorised person must, before anyone enters premises under a search warrant—
  - (a) announce that the authorised person is authorised to enter the premises; and
  - (b) give anyone at the premises an opportunity to allow entry to the premises; and
  - (c) if the occupier of the premises, or someone else who apparently represents the occupier, is present at the premises—identify himself or herself to the person.

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

**77 Details of search warrant to be given to occupier etc**

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

- (a) a copy of the warrant; and
- (b) a document setting out the rights and obligations of the person.

**78 Occupier entitled to be present during search etc**

- (1) If the occupier of premises, or someone else who apparently represents the occupier, is present at the premises while a search warrant is being executed, the person is entitled to observe the search being conducted.
- (2) However, the person is not entitled to observe the search if—
- (a) to do so would impede the search; or
  - (b) the person is under arrest, and allowing the person to observe the search being conducted would interfere with the objectives of the search.
- (3) This section does not prevent 2 or more areas of the premises being searched at the same time.

## **Division 6.5                      Return and forfeiture of things seized**

### **79                      Receipt for things seized**

- (1) As soon as practicable after an authorised person seizes a thing under this part, the authorised person must give a receipt for it to the person from whom it was seized.
- (2) If, for any reason, it is not practicable to comply with subsection (1), the authorised person must leave the receipt, secured conspicuously, at the place of seizure under section 71 (Power to seize things).
- (3) A receipt under this section must include the following:
  - (a) a description of the thing seized;
  - (b) an explanation of why the thing was seized;
  - (c) the authorised person's name, and how to contact the authorised person;
  - (d) if the thing is moved from the place of seizure—where the thing is to be taken.

### **80                      Access to things seized**

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

- (a) inspect it; and
- (b) if it is a document—take extracts from it or make copies of it.

### **81                      Moving things to another place for examination or processing under search warrant**

- (1) A thing found at premises entered under a search warrant may be moved to another place for examination or processing to decide whether it may be seized under the warrant if—



- (a) both of the following apply:
    - (i) there are reasonable grounds for believing that the thing is or contains something to which the warrant relates;
    - (ii) it is significantly more practicable to do so having regard to the timeliness and cost of examining or processing the thing at another place and the availability of expert assistance; or
  - (b) the occupier of the premises agrees in writing.
- (2) The thing may be moved to another place for examination or processing for no longer than 72 hours.
  - (3) An authorised person may apply to a magistrate for an extension of time if the authorised person believes, on reasonable grounds, that the thing cannot be examined or processed within 72 hours.
  - (4) The authorised person must give notice of the application to the occupier of the premises, and the occupier is entitled to be heard on the application.
  - (5) If a thing is moved to another place under this section, the authorised person must, if practicable—
    - (a) tell the occupier of the premises the address of the place where, and time when, the examination or processing will be carried out; and
    - (b) allow the occupier or the occupier's representative to be present during the examination or processing.
  - (6) The provisions of this part relating to the issue of search warrants apply, with any necessary changes, to the giving of an extension under this section.

## 82                    Return of things seized

- (1) A thing seized under this part must be returned to its owner, or reasonable compensation must be paid by the Territory to the owner for the loss of the thing, if—
- (a) an infringement notice for an offence relating to the thing is not served on the owner within 90 days after the day of the seizure and—
    - (i) a prosecution for an offence relating to the thing is not begun within the 90-day period; or
    - (ii) a prosecution for an offence relating to the thing is begun within the 90-day period but the court does not find the offence proved; or
  - (b) an infringement notice for an offence relating to the thing is served on the owner within 90 days after the day of the seizure, the infringement notice is withdrawn and—
    - (i) a prosecution for an offence relating to the thing is not begun within the 90-day period; or
    - (ii) a prosecution for an offence relating to the thing is begun within the 90-day period but the court does not find the offence proved; or
  - (c) an infringement notice for an offence relating to the thing is served on the owner and not withdrawn within 90 days after the day of the seizure, liability for the offence is disputed in accordance with the *Magistrates Court Act 1930*, section 132 (Disputing liability for infringement notice offence) and—
    - (i) an information is not laid in the Magistrates Court against the person for the offence within 60 days after the day notice is given under section 132 that liability is disputed; or

- (ii) an information is laid in the Magistrates Court against the person for the offence within the 60-day period, but the Magistrates Court does not find the offence proved.
- (2) If anything seized under this part is not required to be returned or reasonable compensation is not required to be paid under subsection (1), the thing—
  - (a) is forfeited to the Territory; and
  - (b) may be sold, destroyed or otherwise disposed of as the chief executive directs.

## **Division 6.6                      Miscellaneous**

### **83                      Damage etc to be minimised**

- (1) In the exercise, or purported exercise, of a function under this part, an authorised person must take all reasonable steps to ensure that the authorised person, and a person assisting, causes as little inconvenience, detriment and damage as practicable.
- (2) If an authorised person, or a person assisting, damages anything in the exercise or purported exercise of a function under this part, the authorised person must give written notice of the particulars of the damage to the person the authorised person believes, on reasonable grounds, is the owner of the thing.
- (3) If the damage happens at premises entered under this part in the absence of the occupier, the notice may be given by leaving it, secured conspicuously, at the premises.

### **84                      Compensation for exercise of enforcement powers**

- (1) A person may claim compensation from the Territory if the person suffers loss or expense because of the exercise, or purported exercise, of a function under this part by an authorised person or a person assisting an authorised person.

- (2) Compensation may be claimed and ordered in a proceeding for—
  - (a) compensation brought in a court of competent jurisdiction; or
  - (b) an offence against this Act brought against the person making the claim for compensation.
- (3) A court may order the payment of reasonable compensation for the loss or expense only if it is satisfied it is just to make the order in the circumstances of the particular case.
- (4) A regulation may prescribe matters that may, must or must not be taken into account by the court in considering whether it is just to make the order.

## Part 7 Review of decisions

### **U** 85 Reviewable decisions

For this part, a decision mentioned in table 85 is a *reviewable decision*.

**Table 85 Table of reviewable decisions**

column 1 item	column 2 decision
1	refusing to issue a certificate under section 11 (Certificate of freedom from disease)
2	giving a direction under section 18 (Directions to control spread of endemic disease)
3	refusing to give an approval under section 23 (3) (Public notices for quarantine areas)
4	refusing to give an approval under section 24 (2) (Offence—movement of animals)
5	refusing to give an approval under section 32 (2) (Spreading disease)
6	refusing to give an approval under section 33 (2) (Use of vaccines etc)
7	refusing to give an approval under section 35 (3) (Selling, disposing of or abandoning infected animals)
8	refusing to give an approval under section 36 (2) (Interference with structures securing infected animals)

**Part 7**            Review of decisions

Section 86

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<b>column 1 item</b>	<b>column 2 decision</b>
9	refusing to issue a tag number under section 42
10	cancelling a tag number under section 50
11	refusing to give approval under section 60 (5) (Offences— feeding restricted feed material to ruminants)

**86            Review of decisions**

- (1) Application may be made to the AAT for review of a reviewable decision.
- (2) A person who makes a reviewable decision must give a written notice of the decision to each person affected by the decision.
- (3) The notice must be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).



**90 Regulation-making power**

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

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

- (2) A regulation may make provision in relation to the following:
- (a) prohibiting entry into the ACT of infected animals;
  - (b) prohibiting movement of animals for a period of not longer than 72 hours;
  - (c) the conditions under which animals may be brought into the ACT;
  - (d) inspecting animals brought into the ACT;
  - (e) preventing the introduction of, or the spread of, exotic diseases or endemic diseases;
  - (f) the artificial breeding of stock;
  - (g) detaining, treating, inoculating or isolating animals in a quarantine area;
  - (h) moving animals within, into, or out of, a quarantine area;
  - (i) seizing and destroying infected animals;
  - (j) treating or decontaminating any premise or thing that may spread an exotic or endemic disease;
  - (k) branding infected animals;
  - (l) closing of any road in or adjacent to a quarantine area or erecting of fences or gates across any road to regulate or prevent the movement of animals;
  - (m) the methods of diagnosing and discovering exotic and endemic diseases;
  - (n) the requirements for tags;



- (o) declarations to be given by sellers of animals about the health of the animals or chemicals or biological products used for them; or
  - (p) schemes of identification of stock (whether on a compulsory or voluntary basis).
- (3) A regulation may create offences and fix maximum penalties of not more than 10 penalty units for the offences.

## Dictionary

(see s 4)

*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:

- contravene
- document
- exercise
- function
- police officer
- veterinary surgeon.

***abattoir*** means premises used for the slaughter of stock.

***analyst***, for part 5 (Restricted feed material—ruminants)—see section 54.

***animal*** includes—

- (a) a vertebrate and an invertebrate; and
- (b) an egg, embryo, ovum or sperm, or other product, of an animal from which another animal could be produced; and
- (c) a dead animal;

but does not include a human being.

***animal product*** includes—

- (a) a part of an animal or a secretion or thing that has at any time been part of an animal; and
- (b) a product or thing made or derived from an animal or a part of an animal.

***approved tag*** means a tag approved under a regulation.

***at*** premises includes in or on the premises.

***authorised person*** means an authorised person under section 64.

***bag***, for part 5 (Restricted feed material—ruminants)—see section 53.

***bulk***, for feed or meal, for part 5 (Restricted feed material—ruminants)—see section 53.

***compensable disease*** means an endemic disease declared to be a compensable disease under section 16.

***compounded feed***, for part 5 (Restricted feed material—ruminants)—see section 53.

***connected***, for part 6 (Enforcement)—see section 63.

***director*** means the Director of Veterinary Hygiene.

***disease***, for part 6 (Enforcement)—see section 63.

***endemic disease*** means a disease declared under section 16 to be an endemic disease.

***endemic disease quarantine area*** means an area declared under section 20 to be an endemic disease quarantine area.

***exotic disease*** means a disease declared under section 12 to be an exotic disease.

***exotic disease quarantine area*** means an area declared under section 19 to be an exotic disease quarantine area.

***feed tag***, for part 5 (Restricted feed material—ruminants)—see section 53.

***holding*** means any parcel or parcels of land worked as a single property, whether held under the same or different titles.

***infected***—see section 9.

***market value***, for compensation for an animal, premises or other thing, means the value that the animal, premises or other thing

would have had if, at the time when the assessment for compensation is made—

- (a) it had not been infected with a disease; and
- (b) it had been offered for sale on the open market.

**meal**, for part 5 (Restricted feed material—ruminants)—see section 53.

**non-restricted feed material statement**, for part 5 (Restricted feed material—ruminants)—see section 55.

**occupier**, of premises, for part 6 (Enforcement)—see section 63.

**offence**, for part 6 (Enforcement)—see section 63.

**premises** includes land or a structure or vehicle and any part of an area of land or a structure or vehicle.

**quarantine area** means an exotic disease quarantine area or an endemic disease quarantine area.

**register** means the register kept under section 39.

**required media** means—

- (a) a daily newspaper circulating generally in the ACT; and
- (b) all national or commercial broadcasting services within the meaning of the *Broadcasting Services Act 1992* (Cwlth) broadcasting in the ACT.

**restricted feed material**, for part 5 (Restricted feed material—ruminants)—see section 53.

**restricted feed material statement**, for part 5 (Restricted feed material—ruminants)—see section 55.

**road** means any road, street, lane, thoroughfare or footpath open to, or used by, the public.

**stock**, for part 4 (Stock tags)—see section 37.

**tag** means a tag, label, mark or electronic device designed to be attached to or placed on tagable stock to identify stock for this Act.

**tagable stock** means an animal declared under section 38 to be tagable stock.

**tag number** means a tag number issued under section 42.

**travelling stock** means stock that is being travelled other than on the holding where the stock is ordinarily kept.

**vehicle**—

- (a) see the *Road Transport (General) Act 1999*, dictionary; and
- (b) includes a boat or aircraft.

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

### 3 Legislation history

**Animal Diseases Act 2005 A2005-18**

notified LR 13 April 2005

s 1, s 2 commenced 13 April 2005 (LA s 75 (1))

remainder commenced 13 October 2005 (s 2 and LA s 79)

as amended by

**Statute Law Amendment Act 2005 (No 2) A2005-62 sch 1 pt 1.1**

notified LR 21 December 2005

s 1, s 2 commenced 21 December 2005 (LA s 75 (1))

sch 1 pt 1.1 commenced 11 January 2006 (s 2 (1))

**Justice and Community Safety Legislation Amendment Act 2006  
A2006-40 sch 2 pt 2.5**

notified LR 28 September 2006

s 1, s 2 commenced 28 September 2006 (LA s 75 (1))

sch 2 pt 2.5 commenced 29 September 2006 (s 2 (1))

**Statute Law Amendment Act 2007 (No 3) A2007-39 sch 3 pt 3.2**

notified LR 6 December 2007

s 1, s 2 commenced 6 December 2007 (LA s 75 (1))

sch 3 pt 3.2 commences 27 December 2007 (s 2)

**Animal Diseases Amendment Act 2007 A2007-45**

notified LR 13 December 2007

s 1, s 2 commenced 13 December 2007 (LA s 75 (1))

remainder commenced 14 December 2007 (s 2)

### 4 Amendment history

**Commencement**

s 2 om LA s 89 (4)

**Delegation by director**

s 8 am A2007-45 s 4

**Court proceedings about exotic disease declaration**

s 26 am A2006-40 amdt 2.58

**Appointment of authorised people**

s 64 am A2007-45 s 5

## Endnotes

4 Amendment history

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### Identity cards

s 65 am A2007-45 s 6

### Reviewable decisions

s 85 am A2007-39 amdt 3.5

### Regulation-making power

s 90 am A2005-62 amdt 1.1, amdt 1.2

### Transitional

pt 9 hdg exp 13 October 2007 (s 94)

### Definitions for pt 9

s 91 exp 13 October 2007 (s 94)

### Stock tag numbers

s 92 exp 13 October 2007 (s 94)

### Transitional regulations

s 93 exp 13 October 2007 (s 94)

### Expiry of pt 9

s 94 exp 13 October 2007 (s 94)

### Legislation repealed

s 95 om LA s 89 (3)

### Dictionary

dict am A2007-45 s 7  
def **tag** sub A2005-62 amdt 1.3



## 5 Earlier replications

Some earlier replications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised replication has been published in electronic pdf format on the ACT legislation register. A selection of authorised replications have also been published in printed format. These replications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised replication are identical.

<b>Replication No and date</b>	<b>Effective</b>	<b>Last amendment made by</b>	<b>Replication for</b>
R1 13 Oct 2005	13 Oct 2005- 10 Jan 2006	not amended	new Act
R2 11 Jan 2006	11 Jan 2006– 28 Sept 2006	A2005-62	amendments by A2005-62
R3 29 Sept 2006	29 Sept 2006– 13 Oct 2007	A2006-40	amendments by A2006-40
R4 14 Oct 2007	14 Oct 2007– 13 Dec 2007	A2006-40	commenced expiry

## Endnotes

6 Uncommenced amendments

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### 6 Uncommenced amendments

The following amendments have not been included in this republication because they were uncommenced at the republication date:

<b>Statute Law Amendment Act 2007 (No 3) A2007-39 sch 3 pt 3.2</b>
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## Part 3.2 Animal Diseases Act 2005

### [3.5] Section 85, table 85, item 3

*substitute*

- 3 refusing to give consent under section 23 (4) (Public notices for quarantine areas)

#### Explanatory note

This amendment revises the item to refer correctly to the relevant provision number and text.

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