

2005

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for the Environment)

Animal Diseases Bill 2005

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(As presented)

(Minister for the Environment)

Animal Diseases Bill 2005

A Bill for

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

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Animal Diseases Act 2005*.

4 **2 Commencement**

5 This Act commences on a day fixed by the Minister by written
6 notice.

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

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

12 *Note 3* If a provision has not commenced within 6 months beginning on the
13 notification day, it automatically commences on the first day after that
14 period (see Legislation Act, s 79).

15 **3 Object of Act**

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

18 (a) preventing and controlling outbreaks of endemic and exotic
19 animal diseases in the ACT; and

20 (b) assisting in the prevention and control of outbreaks of endemic
21 and exotic animal diseases in other jurisdictions.

1 **4 Dictionary**

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

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

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

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

13 **5 Notes**

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

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

17 **6 Offences against Act—application of Criminal Code etc**

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

19 *Note 1* *Criminal Code*

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

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

26 *Note 2* *Penalty units*

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

1 **Part 2 Director**

2 **7 Appointment of director**

3 (1) The chief executive may appoint a public servant as the Director of
4 Veterinary Hygiene.

5 (2) A public servant may only be appointed as the director if the person
6 is a veterinary surgeon.

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

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

11 **8 Delegation by director**

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

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

1 **Part 3** **Exotic and endemic diseases of**
2 **animals**

3 **Division 3.1** **General**

4 **9** **Meaning of *infected***

5 (1) For this Act, an animal is *infected* with a disease if it is suffering
6 from the disease.

7 (2) For subsection (1), an animal is taken to be suffering from a disease
8 if there is a reasonable basis for suspecting the animal is infected
9 with the disease.

10 **Example**

11 a veterinary surgeon reports evidence of symptoms of a disease

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

15 (3) For this Act, premises are *infected* with a disease if there is a
16 reasonable basis for suspecting the premises are infected with the
17 disease.

18 **Example**

19 animals infected with the disease have recently been on the premises

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

23 **Examples**

24 1 the thing has recently been in contact with an animal infected with the
25 disease

26 2 the animal product is a product of an animal infected with the disease

- 1 **10** **Declarations under pt 3**
- 2 (1) A declaration under this part may provide for its commencement on
3 or before the declaration's notification day.
- 4 *Note* This subsection provides express authority for a declaration to
5 commence on or before its notification day (see Legislation Act,
6 s 73 (2) (d) (General rules about commencement)).
- 7 (2) However—
- 8 (a) a declaration may not provide for a commencement date or
9 time that would result in the declaration commencing before it
10 is made; and
- 11 (b) a declaration may not commence before it is notified under the
12 Legislation Act unless the Minister is satisfied that the
13 circumstances are of such seriousness and urgency that its
14 commencement before notification is necessary to prevent a
15 disease becoming established, or spreading, in the ACT.
- 16 (3) If a declaration commences before it is notified under the
17 Legislation Act, the Minister must give notice of the declaration to
18 the required media as soon as possible after the declaration is made.
- 19 **11** **Certificate of freedom from disease**
- 20 (1) An owner or occupier of premises may apply to the director, in
21 writing, for a certificate that the premises are not infected with an
22 exotic disease or endemic disease.
- 23 *Note* If a form is approved under s 89 for a certificate, the form must be used.
- 24 (2) If the director is satisfied that the premises are not infected with the
25 disease, the director must, in writing, certify the premises to be free
26 of the disease on the day of the certification.
- 27 (3) In a proceeding for an offence against this Act, a certificate given
28 under this section is evidence of the matters stated in it.

1 **Division 3.2 Exotic diseases**

2 **12 Declaration of exotic disease**

3 (1) The Minister may, in writing, declare a disease to be an exotic
4 disease for this Act.

5 (2) A declaration is a disallowable instrument.

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

8 **13 Notification of exotic disease**

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

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

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

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

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

21 **14 Directions to control spread of exotic disease**

22 (1) The director may, in writing, direct—

23 (a) an authorised person to seize an animal, animal product,
24 vehicle or other thing; or

25 (b) the owner or person in charge of premises, an animal product
26 or other thing to take stated action to decontaminate the
27 premises, animal product or thing; or

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

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

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

14 (3) If an authorised person has reasonable grounds for suspecting that
15 an animal is infected with an exotic disease, the authorised person
16 may, in writing, direct the owner or person in charge of the animal
17 to keep it at stated premises for a stated reasonable time.

18 (4) A person commits an offence if the person fails to take reasonable
19 steps to comply with a direction given to the person under this
20 section.

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

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

24 **15 Import restrictions**

25 (1) The Minister may, in writing, declare an area outside the ACT to be
26 subject to an import restriction, if the Minister has reasonable
27 grounds for believing that—

28 (a) an animal in the area is infected with an exotic disease; and

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

3 (2) A declaration is a disallowable instrument.

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

6 (3) A declaration must state—

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

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

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

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

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

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

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

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

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

24 **Division 3.3 Endemic diseases**

25 **16 Declaration of endemic disease**

26 (1) The Minister may, in writing, declare a disease to be an endemic
27 disease for this Act.

1 (2) The Minister may, in writing, declare an endemic disease to be a
2 compensable disease for section 28 (Compensation for animal etc
3 destroyed—endemic disease).

4 (3) A declaration under this section is a disallowable instrument.

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

7 **17 Notification of endemic disease**

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

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

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

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

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

20 **18 Directions to control spread of endemic disease**

21 (1) The director may, in writing, direct—

22 (a) an authorised person to seize an animal, animal product,
23 vehicle or other thing; or

24 (b) the owner or person in charge of premises, an animal product
25 or other thing to take stated action to decontaminate the
26 premises, animal product or thing; or

27 (c) the owner or person in charge of an animal to—

- 1 (i) take stated action to inoculate the animal or otherwise
2 produce an immunity to the disease in the animal; or
- 3 (ii) take stated action to treat the animal or protect its welfare;
4 or
- 5 (d) an authorised person or anyone else to take any other stated
6 action that the director considers necessary.
- 7 *Note* The Legislation Act, s 170 deals with the application of the privilege
8 against selfincrimination.
- 9 (2) The director may give a direction under subsection (1) only if the
10 director has reasonable grounds for believing that it is necessary to
11 give the direction to prevent or control the spread of an endemic
12 disease.
- 13 (3) If an authorised person has reasonable grounds for suspecting that
14 an animal is infected with an endemic disease, the authorised person
15 may, in writing, direct the owner or person in charge of the animal
16 to keep it at stated premises for a stated reasonable time.
- 17 (4) A person commits an offence if the person fails to take all
18 reasonable steps to comply with a direction given to the person
19 under this section.
- 20 Maximum penalty: 50 penalty units, imprisonment for 6 months or
21 both.
- 22 (5) Subsection (4) does not apply to an authorised person.

23 **Division 3.4** **Quarantine areas**

24 **19** **Exotic disease quarantine area**

- 25 (1) The Minister may, in writing, declare a stated area to be an exotic
26 disease quarantine area, if the Minister has reasonable grounds for
27 believing that—
- 28 (a) an animal is infected with an exotic disease; and

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

3 (2) A declaration is a disallowable instrument.

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

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

8 **20 Endemic disease quarantine area**

9 (1) The Minister may, in writing, declare an area to be an endemic
10 disease quarantine area, if the Minister has reasonable grounds for
11 believing that—

12 (a) an animal is infected with an endemic disease; and

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

15 (2) A declaration is a disallowable instrument.

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

18 **21 Content of quarantine declarations**

19 A declaration under section 19 or section 20 must state—

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

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

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

23 (d) the restrictions on entry to, leaving and movement within the
24 area; and

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

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

3 **22 Offence—contravening restriction in quarantine**
4 **declaration**

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

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

9 **23 Public notices for quarantine areas**

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

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

15 (2) A person commits an offence if—

16 (a) a notice is displayed under subsection (1); and

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

19 Maximum penalty: 10 penalty units.

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

21 (4) Subsection (2) does not apply if the person acts with the written
22 consent of the chief executive.

1 **24 Offence—movement of animals**

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

4 Maximum penalty: 50 penalty units.

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

7 **25 Removal of refuse from quarantine area**

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

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

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

16 (4) A person commits an offence if the person fails to take all
17 reasonable steps to comply with a direction given to the person
18 under subsection (1).

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

21 **26 Court proceedings about exotic disease declaration**

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

26 (a) must not be challenged or called into question in any court; and

27 (b) is not subject to prohibition, mandamus or injunction in any
28 court on any account.

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

3 **27** **Destruction of infected animals etc—endemic disease**

4 (1) The director may, in writing, direct an authorised person or someone
5 else to destroy—

6 (a) an infected animal; or

7 (b) an infected animal product or other thing.

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

12 (3) A direction may state how the animal or thing must be destroyed.

13 (4) The director must give a copy of a direction to the owner or person
14 apparently in charge of the animal or thing—

15 (a) before the direction is carried out unless—

16 (i) after reasonable search and inquiry the owner or person
17 apparently in charge cannot be found; and

18 (ii) the director considers that the circumstances require the
19 immediate destruction of the animal or thing; or

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

22 (5) A person commits an offence if the person fails to take all
23 reasonable steps to comply with a direction given to the person
24 under subsection (1).

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

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

- 1 **28** **Compensation for animal etc destroyed—endemic**
2 **disease**
- 3 (1) This section applies if an animal or thing infected with a
4 compensable endemic disease is destroyed under section 27.
- 5 (2) The owner of the animal or thing may apply to the chief executive
6 for compensation.
- 7 (3) The application must be made within 90 days after the day the
8 animal or thing is destroyed or any further period the chief executive
9 allows.
- 10 (4) The chief executive must decide an amount of compensation (not
11 more than the market value of the animal or thing) payable to the
12 owner.
- 13 **29** **Destruction of infected animals etc—exotic disease**
- 14 (1) The director may, in writing, direct an authorised person or someone
15 else to destroy—
- 16 (a) an infected animal; or
- 17 (b) an infected animal product or other thing; or
- 18 (c) infected premises (other than a dwelling).
- 19 (2) The director may give a direction under subsection (1) only if the
20 director has reasonable grounds for believing that it is necessary to
21 give the direction to the prevention or control the spread of an exotic
22 disease.
- 23 (3) A direction may state how the animal, thing or premises must be
24 destroyed.
- 25 (4) The director must give a copy of a direction to the owner or person
26 apparently in charge of the animal, thing or premises—
- 27 (a) before the direction is carried out unless—

- 1 (i) after reasonable search and inquiry the owner or person
2 apparently in charge cannot be found; and
3 (ii) the director considers that the circumstances require the
4 immediate destruction of the animal, thing or premises; or
5 (b) in any other case—as soon as practicable after the direction is
6 carried out.

- 7 (5) A person commits an offence if the person fails to take all
8 reasonable steps to comply with a direction given to the person
9 under subsection (1).

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

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

13 **30 Compensation for animal etc destroyed—exotic disease**

- 14 (1) This section applies if an animal, premises or other thing has been
15 destroyed under section 29.

- 16 (2) The owner of the animal, premises or other thing may apply to the
17 chief executive for compensation.

- 18 (3) The application must be made within 90 days after the day the
19 animal, premises or other thing is destroyed or any further period
20 the chief executive allows.

- 21 (4) The chief executive must decide an amount of compensation (not
22 more than the market value of the animal, premises or other thing)
23 payable to the owner.

24 **31 Compensation for death of animal from exotic disease**

- 25 (1) This section applies if—
26 (a) an animal has died; and

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

9 Division 3.6 Offences generally

10 32 Spreading disease

- 11 (1) A person commits an offence if the person does something that
12 communicates a disease or disease agent to an animal.
- 13 Maximum penalty: 50 penalty units, imprisonment for 6 months or
14 both.
- 15 (2) This section does not apply if the person acts with the written
16 approval of the director.
- 17 (3) In this section:
- 18 *disease agent* means any prion, virus, rickettsia, bacterium,
19 protozoon, fungus, helminth, arthropod, insect or other pathogen or
20 organism that can cause a disease in an animal.

21 33 Use of vaccines etc

- 22 (1) A person commits an offence if the person uses on an animal, or
23 material derived from an animal—
- 24 (a) a virus, vaccine or other biological product containing living
25 organisms for treatment or prevention of an exotic or endemic
26 disease; or

- 1 (b) a biological product containing something derived from a
2 living organism for diagnosis of an exotic or endemic disease.

3 **Example for par (b)**

4 a protein extract derived as a testing agent

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

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

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

12 **34 Feeding of swill to controlled stock**

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

15 Maximum penalty: 50 penalty units.

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

- 17 (3) In this section:

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

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

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

25 **35 Selling, disposing of or abandoning infected animals**

- 26 (1) This section applies to a person who is the owner of, or is in charge
27 of, an infected animal.

- 1 (2) The person commits an offence if the person does any of the
2 following:
- 3 (a) sells the animal;
- 4 (b) moves the animal from premises to other premises;
- 5 (c) intentionally abandons the animal, or allows the animal to
6 stray;
- 7 (d) hides the animal;
- 8 (e) if the animal is dead—does either of the following:
- 9 (i) leaves the carcass (or any part of it) on or near a road,
10 creek or waterhole;
- 11 (ii) destroys or otherwise disposes of the carcass (or any part
12 of it) otherwise than in accordance with the director's
13 instructions.
- 14 Maximum penalty: 50 penalty units, imprisonment for 6 months or
15 both.
- 16 (3) This section does not apply if the person acts with the written
17 approval of the director.

18 **36 Interference with structures securing infected animals**

- 19 (1) A person commits an offence if—
- 20 (a) the person damages, interferes with or removes a fence or other
21 structure securing an animal; and
- 22 (b) the person is reckless about whether the animal is an infected
23 animal.
- 24 Maximum penalty: 50 penalty units, imprisonment for 6 months or
25 both.
- 26 (2) This section does not apply if the person acts with the written
27 approval of the director.

1 **Part 4** **Stock tags**

2 **37** **Meaning of *stock* for pt 4**

3 In this part:

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

6 **38** **Tagable stock**

7 (1) The Minister may, in writing, declare stock to be tagable stock for
8 this Act.

9 (2) A declaration is a disallowable instrument.

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

12 **39** **Register of tag numbers**

13 The chief executive must keep a register of tag numbers.

14 **40** **Correction of register**

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

17 **41** **Applications for tag numbers**

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

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

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

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

1 **42 Tag numbers**

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

18 **43 Approved manufacturers**

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

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

23 **44 Approved tags**

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

- 1 **45** **Unauthorised manufacture and issue of tags**
- 2 (1) A person commits an offence if—
- 3 (a) the person makes a tag; and
- 4 (b) the person is not an approved manufacturer.
- 5 Maximum penalty: 50 penalty units, imprisonment for 6 months or
- 6 both.
- 7 (2) An approved manufacturer commits an offence if—
- 8 (a) the manufacturer issues a tag; and
- 9 (b) the chief executive has not approved the issuing of the tag.
- 10 Maximum penalty: 50 penalty units, imprisonment for 6 months or
- 11 both.
- 12 **46** **Alteration of tags**
- 13 (1) A person commits an offence if the person alters an approved tag in
- 14 a way that contravenes a regulation that declares that this section
- 15 applies to it.
- 16 Maximum penalty: 50 penalty units.
- 17 (2) An offence against this section is a strict liability offence.
- 18 **47** **Travelling tagable stock**
- 19 (1) A person commits an offence if—
- 20 (a) the person travels tagable stock to or from a place of sale; and
- 21 (b) the stock is not tagged with an approved tag for the owner of
- 22 the stock.
- 23 Maximum penalty: 10 penalty units.

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

11 **48 Tags to remain with carcasses**

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

16 Maximum penalty: 100 penalty units.

17 **49 Records of untagged stock**

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

21 Maximum penalty: 50 penalty units.

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

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

- 1 **50 Cancellation of tag numbers**
- 2 (1) This section applies if the chief executive believes, on reasonable
- 3 grounds, that a tag number is not needed for compliance with this
- 4 Act.
- 5 (2) The chief executive may cancel the tag number, if the chief
- 6 executive—
- 7 (a) gives the person who was issued the number a reasonable
- 8 opportunity to give reasons why it should not be cancelled; and
- 9 (b) takes into account any reasons given by the person.
- 10 (3) If the chief executive cancels a tag number, the chief executive
- 11 must—
- 12 (a) note the cancellation in the register; and
- 13 (b) revoke any authority given to a manufacturer for the number;
- 14 and
- 15 (c) tell the person who was issued the number about its
- 16 cancellation.
- 17 **51 Destruction of tag after cancellation**
- 18 (1) A person who is issued a tag number commits an offence if—
- 19 (a) the tag number is cancelled under section 50; and
- 20 (b) the person fails to destroy each tag with the number as soon as
- 21 practicable after being told about the cancellation.
- 22 Maximum penalty: 50 penalty units
- 23 (2) An offence against this section is a strict liability offence.

1 **52 Evidentiary certificates**

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

1 **Part 5** **Restricted feed material—**
2 **ruminants**

3 **53** **Definitions for pt 5**

4 In this part:

5 *analyst* means an analyst under section 54.

6 *bag* includes a container or package.

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

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

10 *feed tag* means a tag or label, with dimensions of at least 45mm by
11 120mm, that is designed to be attached to a bag.

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

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

15 *restricted feed material* means—

16 (a) fishmeal; or

17 (b) meal derived from poultry tissue; or

18 (c) mammalian tissue or meal of mammalian origin other than—

19 (i) tallow; and

20 (ii) gelatine; and

21 (iii) milk, milk products or milk protein.

22 *restricted feed material statement*—see section 55.

1 **54 Analysts for pt 5**

2 The following people are analysts for this part:

3 (a) the government analyst under the *Drugs of Dependence*
4 *Act 1989*, section 183A (2);

5 (b) anyone else appointed by the director.

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

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

11 **55 Feed statements**

12 In this part:

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

15 ‘This product does not contain restricted feed material’.

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

18 (a) ‘This product contains restricted feed material—DO NOT
19 FEED TO CATTLE, SHEEP, GOATS, DEER OR OTHER
20 RUMINANTS’;

21 (b) ‘This product contains restricted feed material—DO NOT
22 FEED TO RUMINANTS’;

23 (c) ‘DO NOT FEED TO RUMINANTS’;

24 (d) ‘For non-ruminant use only’.

-
- 1 **56** **Offence—manufacture of ruminant food**
- 2 A person commits an offence if the person—
- 3 (a) manufactures compounded feed or meal that includes restricted
- 4 feed material; and
- 5 (b) fails to take reasonable steps to prevent the inclusion of
- 6 restricted feed material in the feed or meal; and
- 7 (c) is reckless about whether the feed or meal is for ruminant use.
- 8 Maximum penalty: 100 penalty units, imprisonment for 1 year or
- 9 both.
- 10 **57** **Offences—sale or supply of bulk or bagged compounded**
- 11 **feed and meal**
- 12 (1) A person commits an offence if—
- 13 (a) the person sells or supplies bulk feed or meal that contains
- 14 restricted feed material; and
- 15 (b) the invoice or other document about the sale or supply of the
- 16 feed or meal does not contain a restricted feed material
- 17 statement that complies with subsection (5).
- 18 Maximum penalty: 100 penalty units, imprisonment for 1 year or
- 19 both.
- 20 (2) A person commits an offence if—
- 21 (a) the person sells or supplies bulk feed or meal that does not
- 22 contain restricted feed material; and
- 23 (b) the invoice or other document about the sale or supply of the
- 24 feed or meal does not contain a non-restricted feed material
- 25 statement that complies with subsection (5).
- 26 Maximum penalty: 100 penalty units, imprisonment for 1 year or
- 27 both.

- 1 (3) A person commits an offence if—
- 2 (a) the person sells or supplies a bag of compounded feed or meal
- 3 that contains restricted feed material; and
- 4 (b) the bag does not have a statement on the bag, or a feed tag
- 5 attached to the bag, that contains a restricted feed material
- 6 statement complying with subsection (5).
- 7 Maximum penalty: 100 penalty units, imprisonment for 1 year or
- 8 both.
- 9 (4) A person commits an offence if—
- 10 (a) the person sells or supplies in a bag compounded feed or meal
- 11 that does not contain restricted feed material; and
- 12 (b) the bag does not have a statement on the bag, or a feed tag
- 13 attached to the bag, that contains a non-restricted feed material
- 14 statement that complies with subsection (5).
- 15 Maximum penalty: 100 penalty units, imprisonment for 1 year or
- 16 both.
- 17 (5) For this section, a statement must be—
- 18 (a) prominently displayed; and
- 19 (b) in letters at least 3mm high; and
- 20 (c) in dark print on a light background.
- 21 (6) This section does not apply to—
- 22 (a) material sold or supplied as pet food;
- 23 (b) food sold or supplied for feeding to non-ruminant laboratory
- 24 animals.
- 25 (7) For this section:
- 26 *pet food* includes food for aquarium fish and caged birds other than
- 27 poultry.

1 **58 Offence—obscuring of statements**

2 A person commits an offence if—

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

9 Maximum penalty: 50 penalty units.

10 **59 Offence—removal etc of feed tags**

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

15 Maximum penalty: 50 penalty units.

- 16 (2) A person commits an offence if—

- 17 (a) the person alters, defaces, damages or otherwise interferes with
18 a bag, or a feed tag attached to a bag, that contains
19 compounded feed or meal; and
- 20 (b) the interference alters, obscures or removes a restricted feed
21 material statement or non-restricted feed material statement on
22 the bag or feed tag.

23 Maximum penalty: 50 penalty units.

24 **60 Offences—feeding restricted feed material to ruminants**

- 25 (1) A person commits an offence if—

- 26 (a) the person feeds restricted feed material to a ruminant; and

Part 5 Restricted feed material—ruminants

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1 (b) is reckless about whether the material contains restricted feed
2 material.

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

5 (2) A person commits an offence if—

6 (a) the person feeds bulk compounded feed or bulk meal to a
7 ruminant; and

8 (b) the invoice or other document about the sale or supply of the
9 feed or meal contains a restricted feed material statement.

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

12 (3) A person commits an offence if—

13 (a) the person feeds bagged compounded feed or bagged meal to a
14 ruminant; and

15 (b) a statement on the bag, or a feed tag attached to the bag,
16 contains a restricted feed material statement.

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

19 (4) This section does not apply to a person who feeds restricted feed
20 material to a ruminant under an approval under subsection (5).

21 (5) The director may, in writing, approve the feeding of restricted feed
22 material to a ruminant for research purposes if the director is
23 satisfied that the research is in the public interest.

24 **61 Procedure if samples taken for pt 5**

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

27 (a) divide the sample into 3 parts; and

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

11 **62 Evidence of analysis for pt 5**

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

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

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

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

7 **65 Identity cards**

8 (1) The chief executive must give an authorised person an identity card
9 stating the person's name and that the person is an authorised
10 person.

11 (2) The identity card must show—

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

13 (b) the card's date of issue and expiry; and

14 (c) anything else prescribed by regulation.

15 (3) A person commits an offence if—

16 (a) the person stops being an authorised person; and

17 (b) the person does not return the person's identity card to the
18 chief executive as soon as practicable, but no later than 7 days
19 after the day the person stops being an authorised person.

20 Maximum penalty: 1 penalty unit.

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

22 **Division 6.3 Powers of authorised people**

23 **66 Power to enter premises**

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

25 (a) at any reasonable time, enter premises if the authorised person
26 suspects, on reasonable grounds—

- 1 (i) that an animal, animal product or thing at the premises is,
2 or the premises are, infected with a disease; or
- 3 (ii) that entry to the premises is necessary to prevent or
4 control the spread of disease; or
- 5 (b) at any reasonable time, enter premises that the public is entitled
6 to use or that are open to the public (whether or not on
7 payment of money); or
- 8 (c) at any time, enter premises with the occupier's consent; or
- 9 (d) enter premises in accordance with a search warrant; or
- 10 (e) at any time, enter premises if the authorised person believes, on
11 reasonable grounds, that the circumstances are so serious and
12 urgent that immediate entry to the premises without the
13 authority of a search warrant is necessary.
- 14 (2) However, subsection (1) (a) or (b) does not authorise entry into a
15 part of premises that is being used only for residential purposes.
- 16 (3) An authorised person may, without the consent of the occupier of
17 premises, enter land around the premises to ask for consent to enter
18 the premises.
- 19 (4) For subsection (1), an authorised person may stop and detain a
20 vehicle if the authorised person believes, on reasonable grounds,
21 that it is necessary to stop and detain the vehicle—
- 22 (a) to find out whether an animal, animal product or other thing in
23 or on the vehicle is, or the vehicle is, infected with a disease; or
- 24 (b) to prevent or control the spread of disease.
- 25 (5) For subsection (4), the authorised person—
- 26 (a) may direct the driver of the vehicle to move the vehicle to a
27 place (or another place) to which the public has access; and
- 28 (b) may exercise the authorised person's powers in relation to the
29 vehicle at the place; and

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

15 **67 Production of identity card**

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

19 **68 Consent to entry**

- 20 (1) When seeking the consent of an occupier of premises to enter
21 premises under section 66 (1) (c), an authorised person must—
- 22 (a) produce his or her identity card; and
- 23 (b) tell the occupier—
- 24 (i) the purpose of the entry; and
- 25 (ii) that anything found and seized under this part may be
26 used in evidence in court; and
- 27 (iii) that consent may be refused.

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

20 **69 General powers on entry to premises**

- 21 (1) An authorised person who enters premises under this part may, for
22 this Act, do 1 or more of the following in relation to the premises or
23 anything at the premises:
- 24 (a) inspect or examine;
- 25 (b) take measurements or conduct tests;
- 26 (c) take samples;

- 1 (d) take photographs, films, or audio, video or other recordings;
2 (e) take copies of, or an extract from, any document relating to—
3 (i) an infected animal; or
4 (ii) an animal that is kept or has been kept within an exotic
5 disease quarantine area or an endemic disease quarantine
6 area; or
7 (iii) tagable stock;
8 (f) if the authorised person has reasonable grounds for suspecting
9 that an animal, animal product or other thing may be infected
10 with a disease—
11 (i) seize the animal, animal product or other thing or direct
12 that it be detained on the premises; or
13 (ii) take a sample from the animal, animal product or other
14 thing; or
15 (iii) use a test approved by the director to find out whether the
16 animal, animal product or other thing is infected with the
17 disease;
18 (g) require the occupier, or anyone at the premises, to give the
19 authorised person reasonable help to exercise a power under
20 this part.

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

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

25 Maximum penalty: 50 penalty units.

1 **70 Power to require name and address**

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

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

9 (2) The authorised person must tell the person the reason for the
10 requirement and, as soon as practicable, record the reason.

11 (3) The person may ask the authorised person to produce his or her
12 identity card for inspection by the person.

13 (4) A person must comply with a requirement made of the person under
14 subsection (1) if the authorised person—

15 (a) tells the person the reason for the requirement; and

16 (b) complies with any request made by the person under
17 subsection (3).

18 Maximum penalty: 10 penalty units.

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

20 (6) In this section:

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

23 **71 Power to seize things**

24 (1) An authorised person who enters premises under this part with the
25 occupier's consent may seize anything at the premises if—

26 (a) the authorised person is satisfied, on reasonable grounds, that
27 the thing is connected with an offence against this Act; and

- 1 (b) seizure of the thing is consistent with the purpose of the entry
2 told to the occupier when seeking the occupier's consent.
- 3 (2) An authorised person who enters premises under a warrant under
4 this part may seize anything at the premises that the authorised
5 person is authorised to seize under the warrant.
- 6 (3) An authorised person who enters premises under this part (whether
7 with the occupier's consent, under a warrant or otherwise) may seize
8 anything at the premises if satisfied, on reasonable grounds, that—
- 9 (a) the thing is connected with an offence against this Act; and
10 (b) the seizure is necessary to prevent the thing from being—
- 11 (i) concealed, lost or destroyed; or
12 (ii) used to commit, continue or repeat the offence.
- 13 (4) Having seized a thing, an authorised person may—
- 14 (a) remove the thing from the premises where it was seized (the
15 *place of seizure*) to another place; or
16 (b) leave the thing at the place of seizure but restrict access to it.
- 17 (5) A person commits an offence if—
- 18 (a) the person interferes with a seized thing, or anything
19 containing a seized thing, to which access has been restricted
20 under subsection (4); and
- 21 (b) the person does not have an authorised person's approval to
22 interfere with the thing.
- 23 Maximum penalty: 50 penalty units.
- 24 (6) An offence against this section is a strict liability offence.

- 1 **72 Additional powers for travelling stock**
- 2 (1) If an authorised person believes, on reasonable grounds, that the
- 3 owner of travelling stock is contravening this Act, the authorised
- 4 person may hold the travelling stock until the Act is complied with.
- 5 (2) If an authorised person believes, on reasonable grounds, that it is
- 6 necessary to find out whether an animal is infected with a disease, or
- 7 to control the spread of disease, the authorised person may—
- 8 (a) detain travelling stock for examination; or
- 9 (b) direct the owner of the stock, in writing—
- 10 (i) to travel the stock to stated premises; or
- 11 (ii) to hold the stock at stated premises and to comply with
- 12 any conditions stated in the direction.
- 13 (3) A person must take all reasonable steps to comply with a direction
- 14 given to the person under subsection (2) (b).
- 15 Maximum penalty: 50 penalty units.
- 16 (4) An offence against this section is a strict liability offence.
- 17 (5) In this section:
- 18 *owner*, of travelling stock, includes a person in charge of the stock.
- 19 **73 Additional powers for honeybees**
- 20 (1) If an authorised person believes on reasonable grounds that a person
- 21 keeping honeybees is engaging in conduct in contravention of a
- 22 regulation, the authorised person may direct the person, in writing,
- 23 to comply with the regulation.
- 24 (2) A direction under subsection (1) must state a reasonable period for
- 25 compliance.

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

4 **Division 6.4 Search warrants**

5 **74 Warrants generally**

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

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

4 **75 Warrants—application made other than in person**

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

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

18 **76 Search warrants—announcement before entry**

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

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

7 **77 Details of search warrant to be given to occupier etc**

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

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

14 **78 Occupier entitled to be present during search etc**

15 (1) If the occupier of premises, or someone else who apparently
16 represents the occupier, is present at the premises while a search
17 warrant is being executed, the person is entitled to observe the
18 search being conducted.

19 (2) However, the person is not entitled to observe the search if—

- 20 (a) to do so would impede the search; or
21 (b) the person is under arrest, and allowing the person to observe
22 the search being conducted would interfere with the objectives
23 of the search.

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

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

2 **79** **Receipt for things seized**

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

17 **80** **Access to things seized**

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

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

22 **81** **Moving things to another place for examination or**
23 **processing under search warrant**

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

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

1 **82 Return of things seized**

- 2 (1) A thing seized under this part must be returned to its owner, or
3 reasonable compensation must be paid by the Territory to the owner
4 for the loss of the thing, if—
- 5 (a) an infringement notice for an offence relating to the thing is
6 not served on the owner within 90 days after the day of the
7 seizure and—
- 8 (i) a prosecution for an offence relating to the thing is not
9 begun within the 90-day period; or
- 10 (ii) a prosecution for an offence relating to the thing is begun
11 within the 90-day period but the court does not find the
12 offence proved; or
- 13 (b) an infringement notice for an offence relating to the thing is
14 served on the owner within 90 days after the day of the seizure,
15 the infringement notice is withdrawn and—
- 16 (i) a prosecution for an offence relating to the thing is not
17 begun within the 90-day period; or
- 18 (ii) a prosecution for an offence relating to the thing is begun
19 within the 90-day period but the court does not find the
20 offence proved; or
- 21 (c) an infringement notice for an offence relating to the thing is
22 served on the owner and not withdrawn within 90 days after
23 the day of the seizure, liability for the offence is disputed in
24 accordance with the *Magistrates Court Act 1930*, section 132
25 (Disputing liability for infringement notice offence) and—
- 26 (i) an information is not laid in the Magistrates Court against
27 the person for the offence within 60 days after the day
28 notice is given under section 132 that liability is disputed;
29 or

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

10 **Division 6.6 Miscellaneous**

11 **83 Damage etc to be minimised**

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

24 **84 Compensation for exercise of enforcement powers**

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

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

1 **Part 7** **Review of decisions**

2 **85** **Reviewable decisions**

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

5 **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)

column 1 item	column 2 decision
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9	refusing to issue a tag number under section 42
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10	cancelling a tag number under section 50
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11	refusing to give approval under section 60 (5) (Offences— feeding restricted feed material to ruminants)
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1 **86** **Review of decisions**

2 (1) Application may be made to the AAT for review of a reviewable
3 decision.

4 (2) A person who makes a reviewable decision must give a written
5 notice of the decision to each person affected by the decision.

6 (3) The notice must be in accordance with the requirements of the code
7 of practice in force under the *Administrative Appeals Tribunal*
8 *Act 1989*, section 25B (1).

1 **Part 8** **Miscellaneous**

2 **87** **Noncompliance with directions and cost recovery**

3 (1) If a person contravenes a direction given by the director or
4 authorised person under this Act, the director or authorised person
5 may arrange for action to be taken to give effect to the direction.

6 (2) The reasonable costs incurred by the director or authorised person
7 under subsection (1), are a debt payable to the Territory by the
8 person to whom the direction was given.

9 **88** **Determination of fees**

10 (1) The Minister may, in writing, determine fees for this Act.

11 *Note* The Legislation Act contains provisions about the making of
12 determinations and regulations relating to fees (see pt 6.3).

13 (2) A determination is a disallowable instrument.

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

16 **89** **Approved forms**

17 (1) The Minister may, in writing, approve forms for this Act.

18 (2) If the Minister approves a form for a particular purpose, the
19 approved form must be used for that purpose.

20 *Note* For other provisions about forms, see the Legislation Act, s 255.

21 (3) An approved form is a notifiable instrument.

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

1 **90 Regulation-making power**

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

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

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

6 (a) prohibiting entry into the ACT of infected animals;

7 (b) prohibiting movement of animals for a period of not longer
8 than 72 hours;

9 (c) the conditions under which animals may be brought into the
10 ACT;

11 (d) inspecting animals brought into the ACT;

12 (e) preventing the introduction of, or the spread of, exotic diseases
13 or endemic diseases;

14 (f) using semen in the artificial insemination of stock;

15 (g) detaining, treating, inoculating or isolating animals in a
16 quarantine area;

17 (h) moving animals within, into, or out of, a quarantine area;

18 (i) seizing and destroying infected animals;

19 (j) treating or decontaminating any premise or thing that may
20 spread an exotic or endemic disease;

21 (k) branding infected animals;

22 (l) closing of any road in or adjacent to a quarantine area or
23 erecting of fences or gates across any road to regulate or
24 prevent the movement of animals;

25 (m) the methods of diagnosing and discovering exotic and endemic
26 diseases;

27 (n) the requirements for stock tags;

Part 8 **Miscellaneous**

Section 90

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

1 **Part 9** **Transitional**

2 **91** **Definitions for pt 9**

3 In this part:

4 *commencement day* means the day this Act commences.

5 *repealed Act* means the *Animals Diseases Act 1993*.

6 **92** **Stock tag numbers**

7 A tag number allocated to a person under the repealed Act,
8 section 33 that has not been cancelled before the commencement
9 day is taken to be a tag number issued to the person under
10 section 42.

11 **93** **Transitional regulations**

12 (1) A regulation may prescribe transitional matters necessary or
13 convenient to be prescribed because of the enactment of this Act.

14 (2) A regulation may modify this part to make provision in relation to
15 anything that, in the Executive's opinion, is not, or is not adequately
16 or appropriately, dealt with in this part.

17 (3) A regulation under subsection (2) has effect despite anything
18 elsewhere in this Act.

19 **94** **Expiry of pt 9**

20 This part expires 2 years after the day it commences.

1 **95** **Legislation repealed**

2 This Act repeals the following legislation and instruments:

- 3 • *Animal Diseases Act 1993* A1993-61
- 4 • *Animal Diseases (Bees) Regulation 2000* SL2000-3
- 5 • *Animal Diseases Declaration of Endemic Stock Diseases*
- 6 *Quarantine Area 2002 (No 2)* DI2002-46
- 7 • *Animal Diseases (Fees) Determination 2004* DI2004-108
- 8 • *Declaration of Approved Tag Manufacturers* NI2001-15
- 9 • *Declaration of Endemic Diseases* DI 2002-0
- 10 • *Declaration of Endemic Stock Diseases Quarantine Area*
- 11 *DI2002-16*
- 12 • *Declaration of Exotic Diseases* DI2002-8
- 13 • *Declaration of Stock* DI2001-295
- 14 • *Declaration made under the Stock Diseases Act 1933 notified*
- 15 *on 5 February 1992* DI1992-3
- 16 • *Declaration made under the Stock Diseases Act 1933 notified*
- 17 *on 5 February 1992* DI1992-4.

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
- 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

24 **infected**—see section 9.

1 **market value**, for compensation for an animal, premises or other
2 thing, means the value that the animal, premises or other thing
3 would have had if, at the time when the assessment for
4 compensation is made—

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

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

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

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

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

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

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

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

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

18 **required media** means—

19 (a) a daily newspaper circulating generally in the ACT; and

20 (b) all national or commercial broadcasting services within the
21 meaning of the *Broadcasting Services Act 1992* (Cwlth)
22 broadcasting in the ACT.

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

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

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

- 1 **stock**, for part 4 (Stock tags)—see section 37.
- 2 **tag** means—
- 3 (a) a tag, label or mark designed to be attached to an animal; or
- 4 (b) an electronic device designed to be placed on an animal to
- 5 identify the animal.
- 6 **tagable stock** means an animal declared under section 38 to be
- 7 tagable stock.
- 8 **tag number** means a tag number issued under section 42.
- 9 **travelling stock** means stock that is being travelled other than on the
- 10 holding where the stock is ordinarily kept.
- 11 **vehicle**—
- 12 (a) see the *Road Transport (General) Act 1999*, dictionary; and
- 13 (b) includes a boat or aircraft.

Endnotes

- 1 **Presentation speech**
Presentation speech made in the Legislative Assembly on 2005.
- 2 **Notification**
Notified under the Legislation Act on 2005.
- 3 **Republications of amended laws**
For the latest republication of amended laws, see www.legislation.act.gov.au.