

Biosecurity Regulation 2025

Subordinate law SL2025–3

made under the

Biosecurity Act 2023, section 234 (regulation-making powers)

EXPLANATORY STATEMENT

This explanatory statement relates to the **Biosecurity Regulation 2025** (regulation) as presented to the Legislative Assembly. It has been prepared to assist the reader of the regulation. It does not form part of the regulation and has not been endorsed by the Legislative Assembly.

The statement must be read in conjunction with the regulation. It is not, and is not meant to be, a comprehensive description of the regulation. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

The regulation **is** a Significant Regulation. Significant Regulations are regulations that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the *Human Rights Act 2004* (HRA).

1.0 THE BIOSECURITY SYSTEM

1.1 Risks and opportunities

The Australian Capital Territory (ACT) is a small jurisdiction and covers a total area of 235,829 hectares consisting of:

- 53% conservation areas
- 21% rural areas and
- 26% urban areas.

It is geographically encircled by New South Wales and faces unique challenges in maintaining its biosecurity programs. Enhanced interoperability and cohesion with the NSW biosecurity system is an important feature of delivering effective and efficient biosecurity responses.

As the ACT's economy grows and diversifies, the ACT Government has invested in encouraging businesses and industries to establish and operate in the Territory. This includes promoting expansion in the agricultural, hospitality and tourism sectors.

Canberra also hosts an international airport which has the potential to develop into an important regional hub for commerce and passenger travel. Being able to harness all these opportunities depends upon a reliant operating environment which fosters trust and confidence in the ACT's ability to effectively manage current and emerging biosecurity risks and threats. A modern and responsive biosecurity legislative framework must be equipped to support the ACT biosecurity system when faced with the full spectrum of plausible biosecurity scenarios, ranging from small scale incidents with limited individual impact to industry-wide incidents with multi-billion dollar impacts.

1.2 A nationally integrated biosecurity system

Biosecurity is a critical part of Australia's efforts to prevent, respond to and recover from plant and animal pests and diseases that threaten the economy, environment and community. It plays an important role in safeguarding the health, lifestyle, culture and values of the community. Biosecurity also protects national agriculture, forestry and fisheries export industries worth \$51 billion, a tourism sector worth \$50 billion, environmental assets worth more than \$5.7 trillion, and more than 1.6 million jobs. If biosecurity is not pro-actively and effectively managed, it could pose significant economic and environmental risks to affected sectors and the broader community. As such, biosecurity is a matter of national significance.

The Australian Government, states and territories operate under an integrated national biosecurity system. This system involves biosecurity measures applied across the biosecurity continuum: offshore (pre-border), at the border, and onshore (post-border). The ACT biosecurity system is part of border (Canberra Airport) and onshore (post-border) biosecurity. The ACT Government recognises Territorians depend on and benefit from pre-border, border and post-border biosecurity risk management measures implemented as part of the national biosecurity system.

The national system is underpinned by the *Biosecurity Act 2015* (C'th).

1.3 The international biosecurity setting

The Australian Government's commitment and investment in biosecurity provides a robust policy and legislative framework to inform and support management of biosecurity risks and threats across the biosecurity continuum. This framework is underpinned by international legal instruments, agreements and their related standards, texts and definitions. They include the Sanitary and Phytosanitary Agreement (SPS Agreement), and to some extent the Agreement on Technical Barriers to Trade, the Convention on Biological Diversity and its Cartagena Protocol on Biosafety, and the International Health Regulations. This international legal

platform provides an agreed global system of risk analysis principles, notification procedures and information exchange to provide consistent safeguards in relation to food safety, human/animal/plant health, and protection of the environment and biological diversity.

Biosecurity threats to Australia, and hence to the ACT, are increasing in frequency and complexity, and are requiring more resources to manage as highlighted through issues such as the:

- detection of Japanese encephalitis virus, which also has human-health impacts;
- failure to eradicate Varroa mite;
- spreading of Red Imported Fire Ants to New South Wales;
- detection of Polyphagous shot-hole borer in Western Australia;
- ongoing, uncontrolled outbreaks of Lumpy skin disease (LSD) and Foot and mouth disease (FMD) in Indonesia;
- detection of African horse sickness in Malaysia and Thailand; and
- ongoing outbreaks of highly pathogenic avian influenza (also known as Bird flu) in Antarctica, Asia, Europe, Africa and North America.

Mitigating these and other biosecurity risks within the ACT and Australia is essential for the wellbeing of our communities, economy and environment.

1.4 Biosecurity legislation in the ACT

The ACT Legislative Assembly passed the *Biosecurity Act 2023* (Biosecurity Act) on 15 November 2023. It repeals the *Pest Plants and Animals Act 2005*, *Animal Diseases Act 2005* and *Plant Diseases Act 2002*. The Biosecurity Act updates the Territory's legislative framework in line with national standards and requirements, international obligations, and local and regional operational needs. The *Biosecurity Legislation Amendment Act 2024* was notified on 19 April 2024 to support the implementation of the Biosecurity Act.

The biosecurity regulations form part of subordinate laws to give effect to the Biosecurity Act and include the:

- *Biosecurity Regulation 2025*;
- *Biosecurity (National Livestock Identification System) Regulation 2025*; and
- *Magistrates Court (Biosecurity Infringement Notices) Regulation 2025*.

2.0 OVERVIEW OF THE REGULATION

The purpose of the regulation is to give effect to certain aspects of the Biosecurity Act notably:

- Prohibition and notification of biosecurity matter;
- Response to biosecurity events;

- Administration of permits and authorisations for dealings with biosecurity matter, including for beekeeping;
- Administration of third-party accreditation for biosecurity audits and certification; and
- Offence provisions for the inappropriate production and supply of feed for pigs, ruminants and other animals.

3.0 CONSULTATION ON THE APPROACH

The Australian Government Department of Agriculture, Fisheries and Forestry, NSW Department of Primary Industries and Regional Development and relevant ACT Government Environment, Planning and Sustainable Development directorate staff were consulted on the development of the regulation to ensure national obligations and standards, and regional implementation requirements were met.

Consultation with the Parliamentary Counsel's Office, and Legislation, Policy and Programs (ACT Government Justice and Community Safety Directorate) informed the development of civil and criminal offence provisions, to ensure consistency with the ACT's civil and criminal law frameworks and guiding principles, and the requirements of the *Human Rights Act 2004*. Economic and Regulatory Policy (ACT Government Treasury) was consulted for advice on the requirements for a regulatory impact statement. Policy and Cabinet Division (ACT Government Chief Minister, Treasury and Economic Development Directorate) was consulted on the broader policy implications of the regulation.

4.0 REGULATORY IMPACT

A regulatory impact statement (RIS) is not required as this regulation does not impose any new obligations that are likely to result in appreciable costs on the community, or part of the community. The regulation gives effect to aspects of the Biosecurity Act related to preventing and managing the introduction and spread of animal and plant pests and diseases in the ACT. The main purpose of the regulation is to update existing provisions to account for better technology and new biosecurity approaches at the national level.

5.0 CLIMATE IMPACT

Biosecurity in the ACT and surrounds is broadly impacted by climate-related risks and changes to the local climate. However, this regulation is not likely to have a material impact on climate change.

6.0 CONSISTENCY WITH HUMAN RIGHTS

6.1 Human rights overview

During the development of the regulation, due regard was given to compatibility with human rights as set out in the *Human Rights Act 2004* (HR Act).

An assessment of the regulation against section 28 of the HR Act is provided below. Section 28 provides that human rights are subject only to reasonable limits set by laws that can be demonstrably justified in a free and democratic society. However, the reasonable limits test may not require the adoption of the least restrictive means identified, but rather that when determining the reasonableness of the relevant limitation, it is sufficient that the means adopted falls within a range of reasonable responses to the problem confronted.

The focus of biosecurity is through preventative risk management. Its proactive and collaborative approach enables early response efforts and risk mitigation measures which can significantly reduce overall costs, harm, and losses, thereby benefitting the government, environment, economy and community. This approach, established through agreed international biosecurity laws and associated multilateral agreements, and their risk management frameworks, standards and protocols, is in place to enable and facilitate biosecure global trade and market access.

Notably, biosecurity measures are not designed in themselves to affect humans, but rather to address biosecurity risks to the environment, economy and community from pest plants, pest animals, and plant and animal diseases. However, these measures may impact the rights of people dealing with biosecurity matters which pose or are likely to pose a biosecurity risk. Providing for adequate powers in the regulation so that it is effective in a wide spectrum of plausible biosecurity scenarios, which includes from localised small-scale incidents to multi-billion dollar industry impacts, is critical for the continued effective operation of the ACT biosecurity system within its national context.

To be fit for purpose within its geographic location inside NSW, the ACT biosecurity system relies upon inter-operability with the NSW biosecurity system. Provisions of the regulation, therefore, also take into account the impacts of the ACT being a place of least restrictive laws. Additionally, the ACT Government is party to the Intergovernmental Agreement on Biosecurity (IGAB2) and related deeds and arrangements. Therefore, compliance requirements of this national framework have also informed the drafting of the regulation.

The objects of the Biosecurity Act include providing for a flexible and responsive framework for the effective management of pests, diseases and other biosecurity matters that may have an adverse effect on the environment, economy or community. The Biosecurity Act provides guidance on what is meant by 'reasonable steps' which requires consideration of a range of factors, including the nature of the biosecurity risk, the degree of impact, the availability and suitability of ways to prevent, eliminate or minimise the biosecurity risk, and the costs involved.

Given this policy context, limits that may be placed on human rights by the regulation are considered reasonable and justifiable in a free and democratic society. An assessment of the regulation's impact on relevant provisions of the HR Act is provided below for the rights engaged.

In setting offence provisions, consideration was given to the:

- *Human Rights Act 2004*;
- ACT Guide for Framing Offences;
- Compliance with ACT Government commitments and obligations under national deed agreements;
- Offence provisions in other jurisdictions;
- Policy and operational needs of the ACT biosecurity system, including interoperability with the NSW biosecurity system;
- Capability to be effective in current and emerging biosecurity risk situations; and
- Need for adequate powers to deal with a wide range of possible biosecurity scenarios with varying risk and impact levels, including from small-scale localised incidents to multi-billion dollar industry-wide impacts.

6.2 Rights engaged

6.2.1 Rights limited

The regulation engages the following rights under the HR Act in specific circumstances which may arise when functions are carried out under the regulation:

- Section 12 – Right to privacy and reputation (limited)
- Section 22 – Rights in criminal proceedings (limited)
- Section 27B – Right to work and rights in work (limited)

The strict liability offences in the regulation will be enforced through an infringement notice scheme detailed in the *Magistrates Court (Biosecurity Infringement Notices) Regulation 2025*. This means that most offences charged under the regulation will not be resolved in court but will be dealt with through infringement notice. In assessing the impact of the strict liability offences in the regulation and the infringement notice scheme, consideration was given to whether section 21 of the HR Act, right to a fair trial, is limited by the regulation. Section 21 of the HR Act recognises that everyone has the right to have criminal charges, and rights and obligations recognised by law, decided by a competent, independent and impartial court or tribunal after a fair and public hearing. It also requires that a judgment in a criminal or civil proceeding must be made public unless the interest of a child requires that the judgement not be made public.

However, the use of an infringement notice scheme does not engage the right to a fair trial under section 21 of the HR Act as the person does not forfeit their right to have the matter heard in court. While an infringement notice scheme offers the

opportunity for a person to pay the infringement notice rather than face prosecution, it does not prevent them from choosing to challenge the notice and instead face prosecution in court, so the rights to a fair trial under section 21 of the HR Act remain available and are not undermined by the possibility of an infringement notice scheme.

Section 12 Right to privacy and reputation

1. Nature of the right affected and the nature and extent of the limitation (s28(a) and (c))

Section 12 (a) of the HR Act recognises that everyone has the right not to have their privacy, family, home or correspondence interfered with unlawfully or arbitrarily; and section 12 (b) recognises the right not to have their reputation unlawfully attacked.

The following sections of the regulation require a relevant person to provide or update personal information or maintain records as required for the operation of the ACT biosecurity system which limit the right to privacy and reputation:

Provision in the Biosecurity Regulation	Purpose of proposed provision	Rationale underpinning provision
s 21 Notifying biosecurity events—Act, s 26 (1)	Provides for a person notifying biosecurity matter to provide their full name and contact details.	An individual's contact details are required in case the person needs to be contacted as a follow up, or in relation to biosecurity responses associated biosecurity event. It enables risks and threats to be promptly assessed and the necessary action to be taken in a timely, efficient and cost-effective manner.
s 22 Notifying presence of notifiable biosecurity matter— Act, s 30 (1)	Provides for a person notifying biosecurity matter to provide their full name and contact details.	An individual's contact details are required in case the person needs to be contacted as a follow up, or in relation to an associated biosecurity event. It enables risks and threats to be promptly assessed and the necessary action to be taken in a timely, efficient and cost-effective manner.
s 24 Dealing with bees is regulated dealing—Act, s 88	Requires that a person engaging in an exempt dealing with bees must provide details of their full name and contact details to Access Canberra within 7 days after bringing the bees into the ACT.	An individual's contact details are required in case the person needs to be contacted as a follow up, or in relation to an associated biosecurity event. It enables risks and threats to be promptly assessed and the

		necessary action to be taken in a timely, efficient and cost-effective manner.
s 26 Beekeeper registration decision—period to decide— Act, s 95 (5)	Provides for the director-general, in deciding a beekeeper registration application, to request additional information from an applicant and a biosecurity audit in relation to the applicant if required.	An individual's contact details are required to identify a registered beekeeper and to be able to contact them as necessary in relation to biosecurity issues affecting beekeepers.
s 27 Register of beekeepers	Requires that the director-general keep a register of registered beekeepers in the ACT which includes details of the beekeeper's full name and contact details, as well as the beekeeper's registration number, along with particulars about the hives the beekeeper has.	Obtaining and keeping records of individuals engaged in beekeeping is required to be able to contact them should a biosecurity event occur or risk be identified. E.g. during the recent national Varroa Mite eradication program and the subsequent management programs.
s 30 Condition—details must be kept up to date	Requires that a registered beekeeper must give the director-general written notice of any change to information relating to the beekeeper's registration within 2 weeks of the change, including when applying for or renewing a registration, and during the period of registration.	Maintaining up to date information in the Beekeeper Register is required to ensure that the beekeeper can be contacted should a biosecurity event occur or a risk be identified. E.g. during the recent national Varroa Mite eradication program and the subsequent management programs.
s 37 Condition—beekeeping records must be kept	Requires a registered beekeeper to keep written beekeeping records about their beehives which includes the full name and contact details of a person who moved a hive, or supplied or acquired a hive, queen or colony, or carried out a treatment measure. A registered beekeeper must keep beekeeping records for 5 years and, on request must, give their records to an authorised person.	Maintaining up to date information about the movement of bees and the persons who moved, acquired and supplied them in the Beekeeper Register is required to ensure that the person can be contacted should a biosecurity event occur or a risk be identified. E.g. during the recent national Varroa Mite eradication program and the subsequent management programs.
s 40 Goat depot registration decision—period to decide— Act, s 95 (5)	Provides for the director-general, in deciding a goat depot registration application, to request additional information from an applicant and a biosecurity audit in relation to the applicant if required.	An individual's contact details are required to identify a registered goat depot operator and to be able to contact them as necessary in relation to biosecurity issues related to goat depots.

2. *The importance of the purpose of the limitation (s28(b))*

The legitimate purpose of these measures is to manage biosecurity risks arising from biosecurity matter, dealings with biosecurity matter or carriers and other activities involving biosecurity matter or carriers that may pose a biosecurity risk to the environment, the economy, or the community.

3. *Relationship between the limitation and its purpose (s28(d))*

The records and registers required to be kept and updated under the regulation are needed to inform a biosecurity risk response and ensure that risks can be appropriately managed in a timely safe, efficient and cost-effective manner. Personal information about owners and operators dealing with biosecurity matter is collected to be able to contact these individuals in the case of a biosecurity event involving relevant biosecurity matter.

4. *Proportionality (s28 (e))*

Only information that is required in assisting with biosecurity risk management is collected and it is only shared if and as required when undertaking functions under the Biosecurity Act. As such, access to personal information is limited and restricted to use only as needed on a case-by-case basis.

Rights in criminal proceedings (s22)

1. *Nature of the right affected and the nature and extent of the limitation (s28(a) and (c))*

This right includes the right to be presumed innocent of an offence until proven guilty by law. Strict liability offences may limit the right to be presumed innocent by allowing for the imposition of criminal liability without the need to prove fault.

The regulation introduces strict liability offences in the following sections:

Provision in the Biosecurity Regulation	Purpose of proposed provision	Rationale underpinning provision
s 9 Offence—feed prohibited pig feed to pigs	Ensures that feed that is harmful to pigs is not fed to pigs.	Ensuring that pigs are not fed feed that is known to adversely affect their health is essential for preventing biosecurity and/or food safety risks.

s 10 Offence—possess animal feed containing prohibited pig feed	Ensures that, in instances where pigs are kept on the premises, that the pigs do not inadvertently have access to prohibited pig feed.	Ensuring that pigs are not fed feed that is known to adversely affect their health is essential for preventing biosecurity and/or food safety risks.
s 11 Offence—supply prohibited pig feed	Enforces that prohibited pig feed must not be supplied for the purpose of feeding pigs.	Ensuring that pigs are not fed feed that is known to adversely affect their health is essential for preventing biosecurity and/or food safety risks.
s 13 Offence— feed restricted animal material to ruminant	Enforces that Restricted Animal Material (RAM) is not fed to ruminants.	RAM can have harmful health and/or food safety effects if fed to ruminants and can give rise to biosecurity and/or food safety risks.
s 14 Offence— supply packaged animal feed without RAM statement	Helps ensure that Restricted Animal Material (RAM) is not fed to ruminants.	RAM can have harmful health and/or food safety effects if fed to ruminants and can give rise to biosecurity and/or food safety risks.
s 15 Offence— supply bulk animal feed without RAM statement	Helps ensure that Restricted Animal Material (RAM) is not fed to ruminants.	RAM can have harmful health and/or food safety effects if fed to ruminants and can give rise to biosecurity and/or food safety risks.
s 16 Offence—interfere with RAM statement on animal feed	Helps ensure that Restricted Animal Material (RAM) is not fed to ruminants.	RAM can have harmful health and/or food safety effects if fed to ruminants and can give rise to biosecurity and/or food safety risks.
s 17 Offence— produce, package or supply contaminated ruminant feed	Enforces that ruminant feed contaminated with RAM must not be produced packaged or supplied by an animal feed business engaged in dealings with ruminant feed.	RAM can have harmful health and/or food safety effects if fed to ruminants and can give rise to biosecurity and/or food safety risks.
s 18 Offence—Newcastle disease vaccination	Enforces that a person who owns a commercial flock of chickens must ensure that the chickens are vaccinated in accordance with the Newcastle disease vaccination program.	Newcastle disease is recognised internationally as a biosecurity risk to affected avian species. Enforcing the vaccination program is critical to managing its entry and spread within Australia.

2. The importance of the purpose of the limitation (s28(b))

The legitimate purpose of these measures is to manage biosecurity risks arising from biosecurity matter, dealings with biosecurity matter or carriers and other activities involving biosecurity matter or carriers that may pose a biosecurity risk to the environment, the economy, or the community.

The majority of these offences mirror offence provisions which exist currently under the *Animal Diseases Act 2005*. They do not increase penalties or alter existing obligations.

3. Relationship between the limitation and its purpose (s28(d))

The inclusion of strict liability offences in the regulation is to ensure offences can be effectively enforced to deter and punish conduct which may otherwise impede efforts to protect the environment, economy or community from the introduction or spread of biosecurity risks.

The strict liability offences in the regulation engage the right to be presumed innocent by reversing the onus of proof from the prosecution onto a defendant. In instances in the regulation where there is a reverse onus of proof its purpose is to ensure the effective enforcement of and compliance with the requirements of the regulation by enabling the offences within it to be effectively prosecuted. At these times, the defendant would be best placed to have the information required to prove their innocence as the person responsible for dealing with the stock at the time or responsible for maintaining records.

The limitation on section 22 is aimed at providing the effective promotion of responsible participation in the biosecurity system. Delays or failure to provide information during a biosecurity event could result in catastrophic outcomes, with risks escalating including through the avoidable spread of diseases or pests, the need to treat or destroy inventory and equipment, and other business losses suffered by owners and operators.

4. Proportionality (s28 (e))

The application of strict liability to offences in the regulation, and the subsequent use of infringement notices, is considered the least restrictive means of effectively enforcing the offences and achieving the legitimate purpose. The use of an infringement notice scheme will allow for a timely and effective response to non-compliance and provide the regulating authority with an alternative to prosecution through the courts that is less restrictive on human rights while still achieving policy objectives.

As a general safeguard, section 23 (1) (b) of the *Criminal Code 2002* provides a specific defence to strict liability offences of mistake of fact. Section 23 (3) of the Criminal Code provides that other defences may also be available for use for strict liability offences, which includes the defence of intervening conduct or event, as provided by section 39 of the Criminal Code.

Notwithstanding the Guide to Framing Offences, section 234(4) of the Biosecurity Act permits the regulation to create offences and fix maximum penalties of not more than 50 penalty units. All strict liability offences in the regulation are limited to a maximum monetary penalty of 50 penalty units. In addition, the regulation specifies definitions of what is regulated, the conduct that is required to commit the offence and the conditions that must be complied with.

For example, section 8 of the regulation defines prohibited pig feed for the purposes of the regulation, and so a person using, possessing or supplying pig feed can be expected to know if feed is prohibited or not.

For each offence, safeguards are provided for certain circumstances where an offence is not committed including for a product treated using an approved process, if the person holds a biosecurity permit or reasonably believes a permit is in place.

The proportionality of the use of strict liability offence provisions in the regulation is discussed below.

Section 9 Offence – feed prohibited food to pigs

Section 10 Offence – possess animal food containing prohibited pig food

Section 11 Offence – supply prohibited pig food

The regulation provides the meaning of prohibited pig food at section 8. Sections 9, 10 and 11 provide offences for the feeding of and possession or supply of prohibited pig food.

Due to prohibited pig food being defined in the regulation, a person using, possessing or supplying pig food can be expected to know if food is prohibited or not.

For each offence, safeguards are provided for certain circumstances where an offence is not committed including for a product treated using an approved process, if the person holds a biosecurity permit or reasonably believes a permit is in place.

Section 13 Offence - feed restricted animal material to a ruminant

Section 14 Offence – supply packaged animal food without a RAM statement

Section 15 Offence – supply bulk animal food without RAM statement

Section 16 Offence – interfere with RAM statement on animal food

Section 17 Offence – produce, package or supply contaminated ruminant food

The regulation includes definitions for restricted animal material, a restricted animal material (RAM) statement, and ruminants. Information currently available on the ACT Government's website for pigs at [Pigs - ACT Government](#) will be updated to reflect the changed requirements under the regulation.

Right to work and rights in work (s27B)

1. Nature of the right and the limitation (s28(a) and (c))

Section 27B provides that everyone has the right to work, including the right to choose their occupation or profession freely. It also states that the practice of a trade, occupation or profession may be regulated by law.

Part 5 of the regulation relates to registration of beekeepers in the ACT, including division 5.2 which provides that dealing with bees (or beekeeping) is a regulated dealing (*s24 Dealing with bees is a regulated dealing*) and that a person must be

registered to deal with bees under biosecurity law. It also provides grounds for refusing registration of a beekeeper (*s26 Beekeeper registration decision—period to decide – Act, s 95 (5)*) implicitly should the director-general be satisfied that an application does satisfy the requirements for beekeeping in the ACT, after additional information has been provided by the applicant upon request by the director-general or following a biosecurity audit in relation to the applicant. The obligations in the regulation exist currently under the *Animal Diseases Act 2005*. The provisions below do not alter existing obligations.

Division 5.3 of the regulation relates to conditions that must be adhered to in order to gain and retain registration as a beekeeper. Being able to work as a beekeeper in the ACT is dependent on the ability to gain registration and adhere to the prescribed conditions. Most conditions outlined below exist currently under the *Animal Diseases regulation 2006* and the *Code of Practice for Beekeeping in Residential Areas in the ACT*.

The following sections in division 5.3 may limit a person's right to work, including the right to choose their occupation, because if they cannot meet the conditions set out, they may not work as a beekeeper in the ACT.

Section 30 Condition – details must be kept up to date
Section 31 Condition – beehive must display registration number
Section 32 Condition – frame hives must be used
Section 33 Condition – maximum number of beehives
Section 34 Condition – beehives near boundary of residential lease
Section 35 Condition – beehives must not be exposed
Section 36 Condition – beehives must be inspected
Section 37 Condition – beekeeping records must be kept
Section 38 Condition – compliance with code of practice

Legitimate purpose (s28(b))

The legitimate purpose of these measures is to manage biosecurity risks associated with beekeeping that may impact the environment, the economy or the community.

Rational connection between the limitation and the purpose (s28(d))

Applying conditions on beekeepers in the ACT provides safety nets within the system to deter non-compliance and ensure beekeeping is undertaken in a matter that reduces risks to biosecurity.

Proportionality (s28 (e))

Provisions introduced in this part of the regulation incorporate existing provisions from the *Animal Diseases Regulation 2006* and the Beekeeping Code of Practice.

This part of the regulation relates to section 89 of the Biosecurity Act (Biosecurity registration authorises regulated dealings).

Section 24 Dealing with bees is a regulated dealing
Section 26 Beekeeper registration decision—period to decide-Act, s 95 (5)

This part of the regulation also relates to section 95 of the Biosecurity Act (Registration – decision on application) which provides that the Director-general may refuse an application for registration under any grounds prescribed by regulation. The following sections set out conditions of registration.

- Section 30 Condition – details must be kept up to date
- Section 31 Condition – beehive must display registration number
- Section 32 Condition – frame hives must be used
- Section 33 Condition – maximum number of beehives
- Section 34 Condition – beehives near boundary of residential lease
- Section 35 Condition – beehives must not be exposed
- Section 36 Condition – beehives must be inspected
- Section 37 Condition – beekeeping records must be kept
- Section 38 Condition – compliance with code of practice

These conditions specify terms, conditions and technical requirements for the safe conduct of beekeeping in the ACT.

Section 222 of the Act provides for the review of decisions and provides a safeguard for refusal of registration.

CLAUSE NOTES

PART 1 PRELIMINARY

Clause 1 **Name of Regulation**

The name of the regulation is the *Biosecurity Regulation 2025*.

Clause 2 **Commencement**

This clause specifies the commencement date of the regulation. The regulation will commence on the commencement of the *Biosecurity Act 2023*, section 234 (Regulation-making power).

Clause 3 **Dictionary**

This clause incorporates the dictionary at the end of the regulation as part of the Regulation.

Clause 4 **Notes**

This clause provides that a note in the regulation is explanatory and does not form part of the regulation.

Clause 5 **Offences against Regulation – application of Criminal Code etc**

This clause provides that other legislation applies to offences against this regulation. The notes to this clause identify that the *Criminal Code 2002* applies to all offences against this regulation and identifies that the meaning of a penalty unit can be found at section 133 of the *Legislation Act 2001*.

PART 2 SPECIFIC BIOSECURITY REQUIREMENTS

DIVISION 2.1 SPECIFIC BIOSECURITY REQUIREMENTS - PRELIMINARY

Clause 6 **Specific biosecurity requirements—Act, s 23**

This clause specifies that a requirement mentioned in the regulation in relation to biosecurity matter, a carrier or a dealing, is a specific biosecurity requirement in relation to the biosecurity matter, carrier or dealing. It also notes that a person who fails to comply with a specific biosecurity requirement may be guilty of an offence under section 24 of the Biosecurity Act.

DIVISION 2.2 SPECIFIC BIOSECURITY REQUIREMENTS—ANIMAL FEED

Subdivision 2.2.1 Animal feed—generally

Clause 7 Definitions—Division 2.2

This clause sets out definitions for division 2.2 of the regulation related to animal feed.

Subdivision 2.2.1 Animal feed—pigs

Clause 8 Meaning of prohibited pig feed Subdivision 2.2.2

This clause specifies the meaning of *prohibited pig feed* for this subdivision. It also sets out definitions of *interstate biosecurity permit*, *mammal* and *mammal product* for the section.

Clause 9 Offence – feed prohibited pig feed to pigs

This clause creates a strict liability offence for feeding prohibited pig feed to pigs. It provides a maximum penalty of 50 penalty units for the offence.

It also provides that the offence does not apply if the feeding is done by, or under direction of a vet, and the pig is fed prohibited pig feed derived only from another pig kept entirely at the same place as the pig.

Clause 10 Offence – possess animal feed containing prohibited pig feed

This clause creates an offence for the possession of animal feed containing prohibited pig feed if a pig is kept at the premises. The maximum penalty for this offence is set at 50 penalty units and is strict liability.

The clause provides that an offence is not committed if the animal feed is intended for consumption by an animal other than a pig, or if the person holds a biosecurity permit authorising them to feed the prohibited pig feed to a pig on the premises (such as for research or baiting purposes).

Clause 11 Offence – supply prohibited pig feed

This clause creates an offence for the supply of prohibited pig feed if the person supplying the feed knows, or reasonably suspects, that it is to be fed to a pig. The maximum penalty for this strict liability offence is set at 50 penalty units.

This offence does not apply if the person reasonably believes that the person to whom they are supplying the prohibited pig feed holds a biosecurity permit authorising them to feed prohibited pig feed to a pig.

Subdivision 2.2.3 Animal feed—ruminants

Clause 12 Definitions – subdivision 2.2.3

This clause sets out definitions for division 2.2.3 of the regulation related to animal feed for ruminants (such as cattle, sheep, goats, alpacas, deer and giraffes), including the meaning of a restricted animal material (RAM) statement.

Clause 13 Offence – feed restricted animal material to a ruminant

This clause provides that a person must not feed restricted animal material to a ruminant (such as cattle, sheep, goats, alpacas, deer and giraffes). This offence is a strict liability offence with a maximum penalty of 50 penalty units.

Clause 14 Offence – supply packaged animal feed without a RAM statement

This clause provides that, in this section “packaged animal feed” means animal feed that is contained in a package such as a bag or box.

This clause provides that a person must not supply packaged animal feed that contains restricted animal material if the package does not display a RAM statement (as defined in clause 12).

It also provides that a person must not supply animal feed that does not contain restricted animal material, if the packaging does not display the required RAM statement for food not containing restricted animal material.

Clause 14(5) provides requirement for ensuring that the RAM statement on packaging is legible.

The clause creates strict liability offences with a maximum penalty of 50 penalty units for breaching the requirements.

Clause 15 Offence—supply bulk animal feed without RAM statement

This clause defines “bulk animal feed” as animal feed that is not contained in a package such as a bag or box.

This clause makes it an offence for the supply of bulk animal feed without displaying a RAM statement and for supplying bulk feed with a statement that does not meet the stated requirements. This clause creates a strict liability offence with a maximum penalty of 50 penalty units for breach of requirements.

Clause 16 Offence – interfere with RAM statement on animal feed

This clause provides that a person must not alter, damage, remove or otherwise interfere with a RAM statement that is displayed on a package of animal feed; or a document accompanying bulk animal feed.

It creates a strict liability offence with a maximum penalty of 50 penalty units for committing the offence.

Clause 17 Offence—produce, package or supply contaminated ruminant feed

This clause provides that a business that produces, packages or supplies ruminant feed must ensure the feed is not contaminated with restricted animal material. The clause creates a strict liability offence with a maximum penalty of 50 penalty units.

DIVISION 2.3 SPECIFIC BIOSECURITY REQUIREMENTS—CHICKENS

Clause 18 Offence Newcastle disease vaccination

This clause provides that a person who owns a commercial flock of chickens (being 1000 birds or more that are managed by a group) must ensure the flock is vaccinated in accordance with the Newcastle disease vaccination program, as provided under the Newcastle Disease Management Plan, endorsed by the Animal Health Committee.

The clause creates a strict liability offence for failing to comply with vaccination requirements with a maximum penalty of 50 penalty units.

PART 3 BIOSECURITY EVENTS

Clause 19 *Meaning of biosecurity event – Act, s25, definition of biosecurity event*, par (b) (vi)

Section 35(b)(vi) of the Biosecurity Act provides that a biosecurity event includes “anything else prescribed by regulation”.

This clause prescribes that the appearance of skin nodules on cattle is a biosecurity event.

PART 4 DUTY TO NOTIFY BIOSECURITY EVENTS AND NOTIFIABLE BIOSECURITY MATTER

Clause 20 Definitions—Part 4

This clause provides definitions relevant to Part 4 of the regulation, related to the duty to notify biosecurity events and notifiable biosecurity matter.

Clause 21 Notifying biosecurity events

Section 26(1) of the Biosecurity Act requires that a person who becomes aware or reasonable suspects that a biosecurity event has happened (or is happening or is likely to happen) has a duty to immediately notify the event in the way prescribed by regulation.

This clause details the information that a person must provide when notifying Access Canberra of a biosecurity event under section 26(1).

Clause 22 Notifying presence of notifiable biosecurity matter

Section 30(1) of the Biosecurity Act requires that a person who becomes aware of or reasonably suspects the presence of notifiable biosecurity matter has a duty to immediately notify the presence in the way prescribed by regulation.

This clause details the information a person must provide when notifying Access Canberra about the presence of a notifiable biosecurity matter.

PART 5 BIOSECURITY REGISTRATION - BEEKEEPERS

DIVISION 5.1 BEEKEEPER REGISTRATION - DEFINITIONS

Clause 23 Definitions—Part 5

This clause provides definitions relevant to Part 5 of the regulation related to biosecurity registration for beekeepers.

DIVISION 5.2 BEEKEEPER REGISTRATION—GENERALLY

Clause 24 Dealing with bees is regulated dealing

Section 88 of the Biosecurity Act provides that regulated dealing for Part 6 of the Act means a dealing with biosecurity matter that is prescribed by regulation.

This clause prescribes the meaning of *regulated dealing* as “a dealing with bees, other than an exempt dealing”. It also states the circumstances for when a person engages in exempt dealing, which includes certain circumstances where a person is registered to deal with bees under a corresponding biosecurity law.

Clause 25 Beekeeper registration decision—registration number

This clause provides that when a person’s application for beekeeper registration is approved, the director-general must allocate the person a unique beekeeper registration number.

Clause 26 Beekeeper registration decision—period to decide

Section 95(5) of the Biosecurity Act provides that if the director-general fails to give an applicant a “registration decision notice” within the period prescribed by regulation, the director-general is taken to have refused the application.

This clause sets out the prescribed period for a decision on an application for beekeeper registration. This prescribed period starts when the director-general receives the application and ends 20 working days after it is received, or later for certain circumstances such as if further information has been requested.

Clause 27 Register of beekeepers

This clause provides that the director-general must keep a register of registered beekeepers. The clause also sets out the information that the register must include for each registered beekeeper.

Clause 28 Beekeeping code of practice

This clause provides that the Minister may approve a code of practice in relation to dealing with bees. Pursuant to section 43, it is a condition of a person's registration as a beekeeper that they comply with any approved code of conduct.

DIVISION 5.3 BEEKEEPER REGISTRATION—CONDITIONS

Clause 29 Beekeeper registration conditions

Section 99(1)(b) of the Biosecurity Act provides that registration conditions for a regulated dealing includes any other condition prescribed by regulation.

This clause provides that the conditions in Division 5.3 are prescribed.

Clause 30 Condition—details must be kept up to date

This clause prescribes that the details of a registered beekeeper must be kept up to date in the register by providing the director-general written notice of any changes.

Clause 31 Condition—beehive must display registration number

This clause prescribes that a registered beekeeper must ensure that their beekeeper registration number is displayed on an external wall of each beehive and that previous registration numbers displayed on a beehive are struck out but remain legible. This must occur within 60 days after registration.

Clause 32 Condition—frame hives must be used

This clause provides that a registered beekeeper must only keep bees in a frame hive and must not give bees access to honey or honey comb, except through the broodbox of that hive. The clause also provides a definition for *frame hive* for this section.

Clause 33 Condition—maximum number of beehives

This clause sets out the maximum number of beehives that a registered beekeeper is allowed to keep.

Clause 34 Condition—beehives near boundary of residential lease

This clause provides that a beekeeper must not keep a beehive within 3m from the boundary of a residential lease unless there is a barrier between the hive and the

boundary. A barrier is considered permissible if it is impenetrable to bees and at least 2 metres high, such as a fence, a hedge or a wall.

Clause 35 Condition—beehives must not be exposed

This clause provides that a registered beekeeper must ensure that beehives and apiary equipment are protected so that a bee from another hive cannot take any honey that is in or on the hive or equipment.

Clause 36 Condition—beehives must be inspected

This clause requires that registered beekeepers must ensure their beehives are accessible and free from obstruction that could impede their inspection. It also requires that a registered beekeeper must inspect each beehive at least twice per year for the presence of declared pest or notifiable biosecurity matter.

The clause note refers to sections 30 and 31 of the Biosecurity Act, which creates a duty to notify presence of a notifiable biosecurity matter and creates offences for failure to comply with that duty.

Clause 37 Condition—beekeeping records must be kept

This clause provides that a registered beekeeper must keep written records about their beehives and bees. It details the records that must be kept and provides examples specific to the records which must be kept, assisting beekeepers in maintaining accurate and correct records.

Clause 38 Condition—compliance with code of practice

This clause provides that a registered beekeeper must comply with the requirements set out in the *Australian Honey Bee Industry Biosecurity Code of Practice*; and any other code of practice approved under section 32 of this regulation.

PART 6 BIOSECURITY REGISTRATION-GOAT DEPOTS

Clause 39 Operating a goat depot is a regulated dealing

Section 88 of the Biosecurity Act provides that for the purpose of Part 6 (“Biosecurity registration”), regulated dealing means a dealing with biosecurity matter that is prescribed by regulation.

The clause prescribes that operating a goat depot is a regulated dealing.

Clause 40 Goat depot registration decision—period to decide

Section 95(5) of the Biosecurity Act provides that if the director-general fails to give an applicant a “registration decision notice” within the period prescribed by regulation, the director-general is taken to have refused the application.

The clause sets out the prescribed period for a decision on an application for goat depot registration. This prescribed period starts when the director-general receives the application and ends 20 working days after it is received, or later for certain circumstances such as if further information has been requested.

Clause 41 Goat depot registration condition

Section 99(1)(b) of the Biosecurity Act provides that registration conditions for a regulated dealing includes any other condition prescribed by regulation.

The clause sets out that, as a condition of registration, a registered goat depot operator must not operate a goat depot at any place other than the place mentioned in their registration.

PART 7 BIOSECURITY REGISTRATION-VACCINATION

Clause 42 Dealing with certain vaccines is regulated dealing

Section 88 of the Biosecurity Act provides that regulated dealing for Part 6 of the Act means a dealing with biosecurity matter that is prescribed by regulation.

This clause prescribes that a dealing with a vaccine that contains notifiable biosecurity matter (other than an exempt dealing) is prescribed to be a regulated dealing. An “exempt dealing” is a dealing with a vaccine that contains prohibited biosecurity matter or dealing with a vaccine in accordance with the agvet code, or a permit issued under the agvet code.

Agvet code is defined as the Agvet Code of the ACT, under the *Agricultural and Veterinary Chemicals Code Act 1994* (Cwlth).

Clause 43 Vaccine dealing registration decision—period to decide

Section 95(5) of the Biosecurity Act provides that if the director-general fails to give an applicant a “registration decision notice” within the period prescribed by regulation, the director-general is taken to have refused the application.

This clause sets out the prescribed period for a decision on an application for vaccine dealing registration. This prescribed period starts when the director-general receives the application and ends 20 working days after it is received, or later for certain circumstances such as if further information has been requested.

PART 8 BIOSECURITY MANAGEMENT PLANS

Clause 44 Definitions—Part 8

This clause provides definitions relevant to Part 8 of the regulation related to biosecurity management plans.

Clause 45 Biosecurity management plans—preparation and adoption

This clause sets out in which circumstances a manager for a place may wish to prepare and adopt a biosecurity management plan.

Clause 46 Biosecurity management plans—effect

This clause provides that a biosecurity management plan may be considered in deciding whether a person knew about a biosecurity risk and whether a person took reasonable steps to manage a biosecurity risk. The section does not limit how a biosecurity plan may be considered.

PART 9 MISCELLANEOUS

Clause 47 Incorporating, applying or adopting documents

This clause provides that this regulation and any instrument under the regulation may incorporate, apply or adopt a law or Australian Standard or another instrument. It also provides that section 47 (6) of the Legislation Act does not apply to the laws or instruments applied, adopted or incorporated under this Regulation.

The standards applied under section 9 and section 13 of this regulation are the *Australian Standard 5008 (Hygienic rendering of animal products)* and *National Standard for Recycling Used Cooking Oil for Animal Feed*. These standards form part of a broader national framework for managing risks associated with animal feed controls in Australia. For food safety purposes, the Australian and New Zealand governments, through the Primary Industries Ministerial Council, approve standards for the use of certain products.

The clause also sets out that the director-general must ensure that a law or instrument described above is available to the public, such as on the ACT legislation register or accessible on an ACT government website and that if it is not, it is not enforceable by or against the Territory.

Dictionary

The Dictionary provides definitions for this regulation.