

# **ANIMAL AND PLANT HEALTH LEGISLATION AMENDMENT BILL 2002**

## **EXPLANATORY NOTES**

### **GENERAL OUTLINE**

#### **Short Title**

The short title of the Bill is the *Animal and Plant Health Legislation Amendment Bill 2002*.

#### **Objectives of the Legislation**

The Bill amends the following Acts administered by the Minister for Primary Industries and Rural Communities:

- *Agricultural Standards Act 1994*
- *Exotic Diseases in Animals Act 1981*
- *Fisheries Act 1994*
- *Plant Protection Act 1989*
- *Stock Act 1915*

The primary objectives of the Bill are to enhance Queensland's legislative capacity to prepare for and respond to potentially devastating exotic terrestrial and aquatic animal diseases and the exotic economic and environmental pest, red imported fire ant.

The Bill will also provide for the repeal of the meat food safety provisions of the *Meat Industry Act 1993* to coincide with the promulgation of a new meat industry Food Safety Scheme under the *Food Production Safety Act 2000*.

## **Reasons for the Bill**

### *Agricultural Standards Act 1994*

The review of this legislation identified the critical need to provide a general power of an inspector to monitor compliance through the stock feed manufacturing and supply chain as well as on farm (this latter requirement is dealt with under the Stock Act).

Monitoring for compliance requires the power to enter, search and inspect, examine, test, take samples for testing, question a person, require the production of documents and inspect and audit documents. It is essential that the ruminant feed bans relating to the manufacture and supply of stock feed containing restricted animal material, imposed by the *Agricultural Standards Regulation 1997*, are monitored.

The Bill will amend the Standards Act to ensure the ability to monitor for compliance. This includes the power to enter premises, (but not into a dwelling house without the permission of the occupier or under a warrant), to search, to inspect, examine, photograph, test, take samples for testing, question a person, require the production of documents and search for documents and to inspect, copy and audit documents.

### *Exotic Diseases in Animals Act 1981*

### *Fisheries Act 1994*

### *Stock Act 1915*

In the light of the recent Foot and Mouth Disease (FMD) and Bovine Spongiform Encephalopathy (BSE) experiences in Britain and Europe, Australian Government animal health authorities have been urgently reviewing Australia's preparedness in relation to preventative measures and emergency response capacities to serious and exotic diseases.

Analysis by the Australian Bureau of Agricultural and Resources Economics indicates that an outbreak of FMD in Australia is likely to result in the **immediate loss of export markets** for beef, sheep meat, pig meat, live animals, dairy products and greasy wool, resulting in large falls in prices received for livestock products. Negative impacts flowing from an outbreak are likely to effect other significant industries, as was clearly evidenced by a significant downturn in the tourism industry post FMD outbreak in Britain.

The detection of BSE in the Australian cattle population would also have direct economic effects via reduced market access for export product. It would also change domestic consumer perception about the safety of

Australian meats and more importantly could result in fatal human cases of the variant Creutzfeldt-Jakob disease.

It is now recognised from the British experience that a **major** outbreak of FMD or BSE would necessitate a whole-of-government (state and national) response. The issues would also quickly move beyond the agricultural arena and necessitate national economic and social strategies. Proposals for such a national approach are being prepared for the Primary Industries Ministerial Council (PIMC) and Council of Australian Governments (COAG). However, lesser outbreaks may still be managed at the state level, and an outbreak of any magnitude would certainly be addressed, initially at least, through state legislation and emergency plans. The national approach will not remove the need for responsive and adequate state disease control legislation.

White Spot Syndrome Virus (WSSV) has been found in green prawns imported into Australia for human consumption but redirected to the bait market. These prawns have come from Asian countries where the disease is endemic in both cultured and wild populations. Since WSSV was first discovered in Japan in 1993 it has spread to many countries in Asia and to central and southern North America. WSSV has caused serious economic loss to the countries where it has established. It has the potential to devastate the prawn farming and wild caught prawn industry in Queensland. Queensland's 1999/2000 aquaculture production of marine prawns was worth \$45.2 million and is increasing by over \$10 million each year. Queensland's production of wild caught prawns is up to \$200 million per year.

Against these backgrounds, the relevant Queensland animal health legislation, the *Stock Act 1915* (Stock Act), the *Exotic Diseases in Animals Act 1981* (Exotic Diseases Act), the *Fisheries Act 1994* (Fisheries Act) and the *Agricultural Standards Act 1994* (Standards Act) have been reviewed and a number of potential weaknesses identified. It is imperative that these potential weaknesses are strengthened to optimise Queensland's capacity to deal with FMD, BSE, WSSV and similar exotic animal diseases.

#### *Plant Protection Act 1989*

The recent outbreak of the pest red imported fire ant has also revealed some deficiencies in the *Plant Protection Act 1989* (Plant Protection Act) in relation to:

- limitations on the persons under the obligation in the Act to report notifiable pests and diseases. Currently only owners of land are required to report;

- limitations on the matters for which “inspector’s certificates” and “assurance certificates” can be used to confirm that products that pose a risk of spreading the pest have been inspected or treated and are free of the pest. Currently the certificates can only be given in relation to plants;
- the unduly short life of Ministerial Notices in relation to pest declarations, controls over introduction of pests, controls over the spread of pest infestation within Queensland and declaration of pest quarantine areas. Currently these notices lapse after 21 days and must have been replaced within that time by a regulation. 21 days is a dangerously short time in which to pass a replacement regulation;
- lack of power to check for pest on land outside a quarantine area where information is received that there are reasonable grounds to believe that there is an imminent risk of infestation of the area.

#### *Meat Industry Act 1993*

The food safety provisions in the *Meat Industry Act 1993* (the Meat Act) will no longer be required once Food Safety Schemes (FSSs) for meat are enacted under the *Food Production (Safety) Act 2000* (the FPS Act). It is anticipated the new meat industry FSS will commence by no later than 1 July 2002. At that time the Parts of the Meat Act that deal with food safety (that is, Parts 3-6, 8 and 8A) need to be repealed. The remaining parts in the Meat Act relating to the Queensland Abattoir Corporation (QAC) will become redundant once the residual assets of the QAC are disposed of by the QAC Administrator and the QAC is wound up, and will expire on 1 January 2003.

#### **The way in which the policy objectives are to be achieved by the Bill**

##### *Exotic Diseases in Animals Act 1981*

Review of the Exotic Diseases Act has revealed a number of deficiencies. Accordingly the Bill will amend the Act to:

- increase the penalties under the Act to align them more appropriately with those in similar, more contemporary legislation. The penalties in the Act have not been increased since its commencement in 1981 and do not reflect the gravity of the implications of non-compliance with control and eradication measures associated with exotic disease outbreaks such as FMD and BSE;

- provide express and transparent capacity to order the pre-emptive destruction of susceptible animals (within relevant parameters). This kind of control strategy was successfully employed for FMD in Britain. This control strategy recognises that eradication of FMD can be achieved most quickly by “stamping-out”, that is, the destruction and disposal of known infected groups, and groups where some animals have had direct contact with known infected animals. The amendments will allow for the destruction of stock before signs become apparent but in situations where these animals may possibly have become infected due to proximity to known infected premises or history of contact;
- pre-emptive slaughter is intended to reduce the total number of animals slaughtered and the total cost of eradication by ensuring that the eradication program proceeds ahead of the disease spread. In order to be successful, eradication must remove infected premises more quickly than new infections occur;
- remove the ability for the courts to provide interlocutory or injunctive relief to an aggrieved person. This amendment recognises the need to ensure decisive and conclusive action when a pre-emptive destruction control strategy is employed in the interests of controlling an exotic disease of stock;
- allow for a quicker means of publication, for example, in forms of media likely to be received in the relevant areas, when notifying the determination of "Control Areas" under the Act;
- provide power for inspectors to order immediate destruction of infected animals;
- provide expressly for the power of an inspector to bait or poison vectors of exotic disease;
- allow for the ability to, under national preparedness arrangements, appoint as inspectors, interstate government veterinarians and technical officers. These officers would be used from the outset to assist in an exotic disease outbreak in Queensland. These officers would need to operate relatively independently and would need to exercise limited inspectorial powers;
- prescribe BSE to be declared an “exotic disease” so that this Act can be used (more appropriately than the *Stock Act 1915*) to mount the response to any detection of a BSE outbreak in Queensland or elsewhere in Australia;

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- provide the capacity to an inspector to specify how situations should be handled on a least-risk basis in a “Standstill Zone” and to give inspectors limited discretion to handle other unanticipated circumstances created by the imposition of standstill notices.

*Stock Act 1915*

As a result of review of the Act's capacity to deal with serious disease outbreak, the Bill seeks to implement the following amendments:

- in order to effect emergency response, an amendment will provide for the capability to appoint both inter and intra state government and private veterinarians as inspectors;
- the requirement in the Act to report notifiable diseases has been expanded to require reporting of indicator syndromes (such as blisters on the feet or mouths of stock, any unexplained and abnormally high mortalities or morbidities, sudden unexplained drops in production) and so enhance the effectiveness of the notification provision;
- further the existing Act can only be used for a prescribed disease. The Bill will provide capacity to mount emergency responses to serious diseases which are initially unknown or not identified and therefore not prescribed by way of an emergency disease notice that allows the chief executive to declare a disease, disorder, condition or other thing to be a disease for the purposes of the Act;
- penalties under the Act have been increased to align them more appropriately with those in similar, more contemporary legislation. The current penalties for offences under this Act are now inadequate. The general penalty is 20 penalty units (\$1,500). In particular a new offence has been created to replace the inadequate penalty (20 penalty units) for “swill feeding” (the feeding of scrap foodstuffs from hotel, restaurants, hospitals etc containing meat and other animal products that in turn, may harbour exotic disease organisms). The Bill provides for the insertion of a new offence provision that provides that a person must not knowingly feed material to stock that has the potential to cause the stock to become infected with an exotic disease;
- provide express powers for an inspector to inspect, and take a copy of, a document at a premises or holding;

- provide powers for inspectors to monitor for compliance. The powers are to enter, search and inspect, examine, test, take samples for testing, question a person, require the production of documents and inspect and audit documents.

#### *Fisheries Act 1994*

The Fisheries Act also needs to provide responsiveness in addressing disease emergencies in which the disease condition is not initially diagnosed. An emergency declaration or quarantine declaration may be made where the chief executive is satisfied that urgent action is needed to meet a significant threat to a fisheries resource. The declaration must be replaced with a regulation within a two-month period. The prescribed two-month replacement period may not be sufficient time in which to deal with the threat and to prepare the replacement regulation, particularly for a disease condition that is proving difficult to diagnose. It would be unacceptable for the emergency quarantine to lapse in these circumstances. Accordingly this two-month period has been extended to 3 months.

The Bill also provides for an amendment that removes the apparently inconsistent requirements for the repeal of emergency quarantine declarations.

#### *Plant Protection Act 1989*

In light of the recent red imported fire ant outbreak, the Plant Protection Act has been reviewed and the Bill seeks to implement a number of amendments designed to strengthen the Act's capacity to deal with serious agricultural pests

The obligation in the Act to report notifiable pests and diseases is currently limited to an owner of land. This notification requirement will be amended to apply to an owner of land or a vehicle. Importantly, the obligation extends to a person engaged by an owner of land to carry out an activity on the land, if the owner or person becomes aware of the existence of a notifiable pest on the land or in a vehicle.

The Act lacks express and transparent capacity for inspectors to enter land to survey and monitor for the presence of pests and diseases outside a quarantine area. Circumstances occur where it is known that material infected with a pest or disease has entered an area, for example from soil or an imported shipment of fruit. Where this occurs it is vital to be able to carry out surveillance in order to reduce the possibility of infestation or re-infestation in a previously affected area.

Control measures for pests include the use of “inspector’s certificates” and “assurance certificates” to confirm that products that pose a risk of spreading the pest have been inspected or treated and are free of the pest. Importantly, these certificates have particular relevance to facilitating interstate trade. The current application of these certificates is limited to plants only. The Bill provides for an amendment that will allow these certificates to be issued in respect of things that may harbour or act as potential vectors for fire ants or other pests and diseases, for example, soil, potting mix, containers, appliances etc.

The Bill will also amend the 21 day life of Ministerial notices in relation to pest declarations, controls over introduction of pests, controls over the spread of pest infestation within Queensland and declaration of pest quarantine areas. Currently the declarations need to be replaced with a regulation where the control is to extend beyond the 21 days. Where a new pest is discovered, extra time is needed to scope the infestation and to research and refine the technical aspects of the preferred control approach to be reflected in a quarantine regulation. The life of these notices will be amended to 3 months to ensure for the development of sound policy for the basis of the replacement regulation.

### **Alternatives to the Bill**

There are three options for dealing with the above issues, they are:

**Option 1.** Act decisively to amend the legislation to remedy the deficiencies identified. This is the **preferred option**.

**Option 2.** Amend the legislation in due course. An opportunity for this will arise in 12-18 months. The Department of Primary Industries has generally reviewed most of the Acts mentioned and intends to replace them with new legislation. This option has been rejected on the grounds the fire ant outbreak is current and the need for adequate capacity to deal with it is immediate. The threats of FMD and WSSV to Queensland are also both serious and immediate.

**Option 3.** Do nothing. This option has been rejected as, given the stakes involved, it would appear inadvisable for Government not to take identified and timely measures to optimise the State’s preparedness for these potentially devastating diseases and pests.

### **Estimated costs for government implementation**

These amendments will not result in any costs to government.



### **Consistency with fundamental legislative principles**

There are some departures from fundamental legislative principles inherent in the Bill. Any such departures will occur in the context of a tension between the fundamental legislative principles outlined in section 4 of the *Legislative Standards Act 1992* and the competing community desire to ensure rapid and decisive response in protecting the community against the impact of potentially devastating exotic animal diseases, aquatic diseases and plant pests. These adverse impacts extend to severe losses in production, risks to animal and human health, and loss of market access.

Whilst the nature of some provisions may be considered onerous, the public interest in a precautionary and prudent approach to disease control management far outweighs the public interest of individual ownership rights in respect of animals with a high propensity to act as a vector of an exotic disease. Where serious and significant threats to industry and public health are the potential impacts of exotic disease, it is the application of the precautionary principle that will ensure the greatest protection and benefit to the whole community.

### **Rights and Liberties of Individuals**

#### **Clause 5—Amendment of s 20 of the Standards Act (Entry to places) —*Entry without a warrant***

This provision will provide for a power of entry without warrant, other than into a dwelling house, to monitor compliance with provisions in the Act about formulation and labelling of stock food for sale. The effect of the provision is to make certain that the strict requirements for preparation of such feeds are adhered to. The requirement for the extension is to prevent or control the spread of an exotic disease.

Certain diseases (eg. BSE) can be caused by inappropriately feeding certain matter to stock. Therefore the requirements for stock feed are critical especially where stock feeds require a ruminant feed warning statement. This power complements the powers under the Stock Act for monitoring compliance with stock feeding bans.

The infringement of rights caused by this amendment will be minimised by ensuring this power of entry being made at a reasonable time and only after reasonable efforts by the inspector to display or produce their identity card. An inspector must advise the occupier that the inspector is authorised under the Act to enter the place and before entering give the occupier sufficient opportunity to consent to the entry.

**Clause 8—Amendment of s 12 of the Exotic Diseases Act (powers of inspectors in order to eradicate and prevent spread of exotic disease)—*Deprivation of right to own property and sufficiently defined administrative power***

The current provisions of s 12 of the Exotic Diseases Act provide the power to an inspector to order the destruction of infected animals by the owner. It is essential, in the interests of preventing controlling or removing an exotic disease of stock, that destruction of infected animals be carried out by an inspector. This power is necessary to ensure that the affected animal is destroyed. A failure to do so may compromise control of the exotic disease. The amendment will assist in avoiding unacceptable delays resulting from failure of the owner to destroy as directed.

The current requirement creates potential for delays and mistakes where destruction requires expertise. The amendment also reflects actual practice in that an owner invariably requests the inspector to perform the destruction.

**Clause 13—Amendment to s 22 of the Exotic Diseases Act (Destruction of animals etc.)—*Deprivation of right to own property and fair compensation***

Clause 13 allows for pre-emptive destruction of animals that are not diseased but that are immediately susceptible to an exotic disease. Experience from the United Kingdom shows that animals in close proximity to disease diagnosed animals may not show clinical signs of an exotic disease but still act as a vector capable of further spreading the disease. Pre-emptive destruction will enable the greatest chance of isolating an exotic disease and will ensure an appropriate buffer zone between infected and uninfected stock.

Whilst such powers override rights of ownership, the public interest in a precautionary and prudent approach to disease control management far outweighs the public interest of individual ownership rights in respect of an animal with a high propensity to act as a vector of an exotic disease.

In order to ensure that such powers are utilised only in necessary cases, the chief inspector must form a reasonable belief, having regard to certain threshold criteria, that it is necessary to destroy the animal. Importantly, the Exotic Diseases Act specifically provides that fair compensation will be payable to the owner of any animal destroyed pursuant to this provision.

**Clause 14—Insertion of new s 24A of the Exotic Diseases Act (No review of a particular decision)—*Rights and Liberties of Individuals (Ouster clauses)***

Clause 14 provides for a new section 24A that removes the Court's power to issue an injunction to prevent the carrying out of an order to destroy animals made under section 22 of the Act.

Whilst the amendment contemplates powers that override rights of ownership, pre-emptive slaughter is intended to reduce the total number of animals slaughtered and the total cost of eradication by ensuring that the eradication program proceeds ahead of the disease spread. In order to be successful, eradication must remove infected premises more quickly than new infections occur.

Fair compensation for this type of destruction under section 22 at market value will be payable under Part 3 of the Exotic Diseases Act.

**Clause 44—Amendment of penalties—Schedule 1 to the Exotic Diseases Act—*Rights and liberties of individuals (maximum penalties)***

One of the lessons learnt from the current United Kingdom experience is that the spread of FMD has in some cases been exacerbated by deliberate contravention of quarantine conditions. Appropriately set penalties serve as a necessary deterrent to help prevent the introduction and spread of exotic diseases.

It is proposed to increase the penalties under the Exotic Diseases Act and the Stock Act to reflect the gravity of the implications of non-compliance with control and eradication measures associated with endemic and exotic disease outbreaks.

The penalty increases will create a reasonable parity with similar offence penalties in other Australian jurisdictions and other similar penalties in the Queensland Statute Book.

**Clause 28—Insertion of new s 20A into Plant Protection Act—*Imminent risk of infestation***

Clause 28 inserts a new section 20A into the Plant Protection Act. The new section 20A provides a power of entry into premises, other than a dwelling house, without a warrant, for the purpose of monitoring for presence or spread of a pest and treating a pest.

The existing response provisions in the Plant Protection Act are deficient by not providing for adequate powers to survey for pests outside a quarantine area where there is an imminent risk of infestation. An

imminent risk may occur, for example, where it is discovered that soil or plants from a quarantine area have been moved to property outside the quarantine area. The amendment ensures that the Department can act quickly to prevent an infestation occurring. These benefits will greatly enhance the Department's capacity to effectively control a pest and are reasonable in the context of the broader community's interest in addressing pest infestations.

Whilst it is anticipated that the majority of these types of activities will be undertaken with the consent of the landowners, such express capacity is required to enhance the response to emergent potential infestation occurrences, especially in circumstances where the consent of a landowner is not forthcoming, or where an owner is simply unavailable to provide consent.

Reasonable safeguards for the use of these powers are to be provided. These powers will only be exercised where the chief inspector is satisfied that an imminent risk of infestation exists. Additionally, such action is to be taken only after an inspector has made a reasonable attempt to notify the owner of the inspector's intentions and to give an owner the opportunity to allow the inspector immediate entry.

These powers will not be used in relation to premises where a person resides. The Act currently contains a power of entry upon the receipt of a warrant from a judicial officer for residential premises or dwelling houses.

**Clause 38 and 39 —Powers in relation to documents in the Stock Act**  
**—*Seizure of documents***

Section 29 of the Stock Act is deficient to the extent to which it allows for the inspection and copying of documents necessary to facilitate the objectives of the Act. Currently the section only allows seizure of certain specific documents that an inspector has reasonable grounds for believing will prove that an offence has been committed.

Amendments contained in clauses 38 and 39 provide clear power to an inspector to inspect and take a copy of a document at premises or a holding necessary for investigation of offences and the collection of evidence of an offence as well as for trace forward and trace back purposes. This power is critical to enable the Department to properly investigate a causal link or identification of a vector for a disease.

### **The Institution of Parliament**

#### **Clauses 22—25 Extension of Time in the Plant Protection Act—*Delegated legislative power and Parliamentary scrutiny***

The life of Ministerial Notices under the Plant Protection Act will be extended from 21 days to 3 months where an urgent emergency response to a pest infestation is required to:—

- declare a pest under s 4;
- prevent introduction of a pest under s 8;
- prevent spread of a pest under s 9; and
- declare a pest quarantine area for a pest under s 11.

The Act required that a Ministerial Notice be replaced by a regulation. It is often difficult to make a follow-up regulation within 21 days due to the time required to adequately identify pest distributions and the general time required to prepare and pass subordinate legislation.

These amendments have sufficient regard to the institution of Parliament, as the statutory instruments will be subject to being prepared by the Office of the Queensland Parliamentary Counsel and will be subject to scrutiny as subordinate legislation.

#### **Clause 36, insertion of new s 12A into the Stock Act—Emergency disease notice—*Delegated legislative power and Parliamentary scrutiny***

Currently a disease notice can only be issued once a specific disease has been diagnosed. Clause 36 provides for a new section 12A into the Stock Act that allows an emergency disease declaration that can be based on a set of symptoms or the expression of a condition.

An emergency disease notice will only be used when the chief executive is satisfied such action is needed to meet a significant threat to the economy of the State or to public health because of the presence or suspected presence of a declared disease. Such a notice must state that it is an emergency disease notice, outline the nature of the emergency and include any details of the declared disease including known symptoms.

The lag that can occur between the expression of a disease type impact (such as a high rate of mortality) and the diagnosis of the disease might allow the disease to spread uncontrolled. The amendment is necessary because, where such diseases are serious, unacceptable delays can be incurred in invoking the legislation to control the disease if the disease has firstly to be identified scientifically, then declared a disease by legislative process.

Making the emergency disease notice subordinate legislation will ensure that the notices are subject to scrutiny as subordinate legislation and that notices are prepared by the Office of the Queensland Parliamentary Counsel.

**Clause 37 Amendment of Notifiable requirements in the Stock Act—*Delegated legislative power and Parliamentary scrutiny***

Clause 37 amends section 27 of the Stock Act by providing an extension of the current notification obligations to certain conditions that could identify the presence of a serious disease. The amendment will provide that a notifiable diseases will include the expression of conditions that include:

- blisters on the mouths and feet of stock;
- unexplained and abnormally high mortality rate or morbidity in animals; and
- sudden and unexplained fall in production relating to stock.

The obligation to notify the presence of the prescribed “conditions” may alert authorities to the presence of a serious disease because these “conditions” are “classic” indicators of serious disease. The requirements to notify such circumstances are clearly in the public interest in preventing, controlling or removing exotic diseases.

## **CONSULTATION**

### **Community**

The following bodies have been consulted in regard to the proposed amendment relevant to them, namely:

- AgForce Queensland;
- Nursery and Garden Industry, Queensland;
- Queensland Aquaculture Development and Advisory Committee representing all aquaculture industries;
- Queensland Association of Landscape Industries, Incorporated representing the cattle, sheep, pigs, poultry, grain, sugar, nursery, cotton, fruit and vegetable industries;
- Queensland Chicken Growers Association Incorporated;
- Queensland Dairy Farmers Organisation;

- Queensland Farmers Federation;
- Queensland Fruit and Vegetable Growers Association; and
- Queensland Pork Producers Organisation.

### **Government**

There has been consultation with Department of the Premier and Cabinet, Queensland Treasury, Queensland Health, the Department of Justice and Attorney-General, Department of State Development, Department of Emergency Services, and Department of Employment, Training and Industrial Relations and the Office of Rural Communities and the Office of the Queensland Parliamentary Counsel.

## **RESULTS OF CONSULTATION**

### **Community**

The bodies consulted each support the proposed amendment relevant to them.

### **Government**

Those Departments and agencies consulted support the amendments.

## **NOTES ON PROVISIONS**

### **PART 1—PRELIMINARY**

#### **Short title**

*Clause 1* provides that the short title of the Act will be the *Animal and Plant Health Legislation Amendment Bill* ('the Act').

### **Commencement**

*Clause 2* provides that the Act commences on a day to be fixed by proclamation.

## **PART 2—AMENDMENT OF AGRICULTURAL STANDARDS ACT 1994**

### **Act amended in pt 2**

*Clause 3* provides that this part amends the *Agricultural Standards Act 1994*.

### **Amendment of s 4 (Definitions)**

*Clause 4* inserts a definition of “exotic disease” into the Act. The definition is consequential on the new power of entry to monitor compliance with requirements for formulation and labelling of stock food for sale inserted by **clause 5** of the Bill.

The clause also relocates the definitions to schedule 2, in accordance with modern drafting practice.

### **Amendment of s 20 (Entry to places)**

*Clause 5* amends section 20 of the Act to include a new power of entry without warrant, other than into a dwelling house, to monitor compliance with provisions in the Act about formulation and labelling of stock food for sale. The effect of the provision is to make certain that the strict requirements for preparation of such feeds are adhered to. The requirement for the extension is to prevent or control the spread of an exotic disease.

Certain diseases (eg. BSE) can be caused by inappropriately feeding certain matter to stock. Therefore the requirements for stock feed are critical especially where stock feeds require a ruminant feed warning statement. This power complements the powers under the Stock Act for monitoring compliance with stock feeding bans.

New sub-clause 20(2) will require that the new power of entry is made at a reasonable time and only after reasonable efforts by the inspector to



display or produce the inspector's identity card. An inspector must advise the occupier that the inspector is authorised under the Act to enter the place and before entering give the occupier sufficient opportunity to consent to the entry.

### **PART 3—AMENDMENT OF EXOTIC DISEASES IN ANIMALS ACT 1981**

#### **Act amended in pt 3**

*Clause 6* provides that this part amends the *Exotic Diseases in Animals Act 1981*.

#### **Amendment of s 5 (Definitions)**

*Clause 7* amends section 5 of the Act by substituting a new definition of inspector. The amendment is consequential to the new powers of appointment of inspectors being inserted by **clause 11** of the Bill.

The clause also includes spongiform encephalopathy as an “exotic disease” for the purposes of the Act and relocates the definitions to schedule 2, in accordance with modern drafting practice.

#### **Amendment of s 12 (Powers of inspectors in order to eradicate and prevent spread of exotic disease)**

*Clause 8* amends section 12 of the Act to empower an inspector to destroy infected animals. The current provisions of s 12 provide the power to an inspector to order the destruction of infected animals by the owner. It is essential, in the interests of preventing controlling or removing an exotic disease of stock, that destruction of infected animals be carried out by an inspector. This power is necessary to ensure that the affected animal is destroyed. A failure to do so may compromise control of the exotic disease. The amendment will assist in avoiding unacceptable delays resulting from failure of the owner to destroy as directed.

The current requirement creates potential for delays and mistakes where destruction requires expertise. The amendment also reflects actual practice

in that an owner invariably requests the inspector to perform the destruction.

**Amendment of s 17 (Effect of notification)**

*Clause 9* amends section 17 of the Act to grant discretionary power to inspectors to direct stock in transit or such stock in circumstances not contemplated by a “stand still” notice, to be taken to specified destinations. This capacity is needed to accommodate situations encountered that cannot be contemplated by a drafted notice. It would not be acceptable for such stock to have to remain for a sustained period on, for example, a truck or train without food, water and shelter.

**Amendment of s 19 (Powers of chief inspector and inspectors)**

*Clause 10* amends section 19 to provide more flexibility for inspectors in the notification procedure for “control areas”. Currently a public notice in a newspaper or newspapers circulating in the particular control area or part thereof is/are the only means of notifying the control area powers. This amendment will provide more flexibility in this notification procedure by extending the types of media that can be used to convey the public notice to include broadcasts on radio or television likely to be received by people in the control area.

**Insertion of new pt 2, div 5A**

*Clause 11* inserts a new Division 5A into the Act relating to inspectors. Currently the Act merely utilizes inspectors appointed under the *Stock Act 1915*. This is not adequate because, under national preparedness arrangements, interstate government veterinarians and technical officers would be used from the outset to assist in an exotic disease outbreak in Queensland. These officers would need to operate relatively independently and would need to exercise limited inspectorial powers.

The new Division will provide an appointment process to allow interstate government veterinarians and technical officers to be appointed for certain purposes under the Act.

### ***Division 5A—Inspectors***

#### **Appointment and qualifications**

New section 19A provides for the appointment of a person as an inspector from the list set out in the clause. The list is limited to:

- local, State or Commonwealth Government employees;
- employees from statutory authorities;
- a veterinarian; or
- a person in a class of persons declared under a regulation to be an approved class of persons.

#### **Appointment conditions and limit on powers**

New section 19B specifies that an inspector holds office on the conditions stated in the inspector's instrument of appointment, a signed notice or a regulation. The section also provides that if an inspector's appointment provides for a term of appointment, the inspector ceases to hold office at the end of the term.

#### **Issue of identity card**

New section 19C requires the chief executive to provide each inspector with an identity card, containing a recent photograph of the person and other relevant particulars. The purpose of the clause is to ensure an inspector can be easily identified.

#### **Production or display of identity card**

New section 19D requires that an inspector must produce or display the inspector's identity card before exercising any powers under the Act. However provision is also made for the inspector to produce the card at the first reasonable opportunity where it is not immediately practical to do so.

#### **When inspector ceases to hold office**

New section 19E details the circumstances in which an inspector ceases to hold office.

### **Resignation**

New section 19F specifies the conditions and method of resignation of an inspector.

### **Return of identity card**

New section 19G sets out the circumstances under which an identity card issued to an inspector must be returned to the chief executive. This is to ensure that a person does not represent that they are an inspector after ceasing to be one.

### **Amendment of s 20 (General powers of inspectors)**

*Clause 12* amends section 20 of the Act to include baiting as a means of destroying vectors of exotic disease.

### **Amendment of s 22 (Destruction of animals etc.)**

*Clause 13* amends section 22 of the Act to allow for pre-emptive destruction of animals that are not diseased but that are immediately susceptible to an exotic disease. Experience from the United Kingdom shows that animals in close proximity to disease-diagnosed animals may not show clinical signs of an exotic disease but still act as a vector capable of further spreading the disease. Pre-emptive destruction will enable the greatest chance of isolating an exotic disease and will ensure an appropriate buffer zone between infected and uninfected stock.

In order to ensure that such powers are utilised only in necessary cases, the chief inspector must form a reasonable belief, having regard to certain threshold criteria, that it is necessary to destroy the animal.

### **Insertion of new s 24A**

*Clause 14* inserts a new section 24A into the Act that removes the Court's power to issue an injunction to prevent the carrying out of an order to destroy animals made under section 22 of the Act.

Pre-emptive slaughter is intended to reduce the total number of animals slaughtered and the total cost of eradication by ensuring that the eradication program proceeds ahead of the disease spread. In order to be

successful, eradication must remove infected premises more quickly than new infections occur.

### **Replacement of s 41 (Proceedings for offences)**

*Clause 15* omits section 41 of the Act (Proceedings for offences) and replaces it with new sections 41, 41A, 41B and 41C.

### **Indictable and summary offences**

New section 41 provides that in this Act, certain serious offences, those carrying a maximum penalty of two years imprisonment are misdemeanours. Any other offence is a summary offence. The amendment is consequential to the amendments in Schedule 1 of the Bill to increase serious offences to a maximum of two years imprisonment.

### **Proceedings for indictable offence**

New section 41A provides for the manner in which proceedings for indictable offences are to be progressed and the maximum penalty that may be summarily imposed for a indictable offence.

### **Limitation on who may summarily hear indictable offence**

New section 41B sets out limitations on who may summarily hear indictable offence proceedings.

### **Limitation on time for starting summary proceeding**

New section 41C provides that a proceeding for an offence against this Act may be started within 1 year after the offence is committed or 6 months after the offence comes to the complainant's knowledge, but within 2 years after the offence is committed.

### **Amendment of s 47 (Regulations)**

*Clause 16* amends section 47 of the Act by inserting a new sub-section 3 that allows for the making of regulations imposing a penalty of no more than 80 penalty units for contravention of a regulation. Previously this penalty level was set out in section 15 of Schedule 2 to the Act. Section 47

itself was silent on the maximum penalty that could be imposed by a regulation.

The new sub-section is required in order to reflect current drafting practice that the maximum limit be prescribed for penalties set by regulation be set in the regulation making power section of the Act. The level of 80 penalty units has been set to reflect the penalties for serious offences that already exist in the *Exotic Diseases in Animals Regulation 1988*. This level of penalty is comparatively high for breach of a regulation. It has been set at this level to reflect the potentially serious effects that breaches of regulations designed to prevent the spread of exotic diseases, such as foot and mouth, can have.

## **PART 4—AMENDMENT OF FISHERIES ACT 1994**

### **Act amended in pt 4**

*Clause 17* provides that this part amends the *Fisheries Act 1994*.

### **Amendment of s 96 (Emergency disease or quarantine declarations)**

*Clause 18* amends section 96 of the Act to extend the period for which an emergency disease or quarantine declaration can be made from two months to three months. It is often difficult to make a follow-up regulation within two months due to the time required to adequately identify pest distributions and the general time required to prepare and pass subordinate legislation.

The clause also amends section 96 to make the emergency disease and quarantine declaration subordinate legislation. Making the emergency disease notice subordinate legislation will ensure that the notices are subject to Parliamentary scrutiny and are prepared by the Office of the Queensland Parliamentary Counsel.

Because the quarantine notices will now be subordinate legislation sub-section 97(7) has been omitted. That clause previously set out requirements where a notice conflicted with subordinate legislation, that is a regulation or management plan.

The clause also renumbers the section.

**Amendment of s 102 (Revocation of quarantine or emergency quarantine declaration)**

*Clause 19* amends section 102 of the Act to clarify that the section does not apply to emergency quarantine declarations. Section 102 currently would require that the chief executive revoke an emergency quarantine declaration once the chief executive was satisfied that the relevant declared disease is no longer present in the declared quarantine area. In fact, the purpose of an emergency disease declaration is to allow a quarantine in circumstances where a particular disease has not yet been identified, a process that can take several weeks, but where urgent action is needed to meet a significant threat to fisheries resources or a fish habitat.

The emergency quarantine declaration would be replaced by a quarantine area under section 95, which targets the specific threat, once the threat has been identified.

**PART 5—AMENDMENT OF PLANT PROTECTION ACT  
1989**

**Act amended in pt 5**

*Clause 20* provides that this part amends the *Plant Protection Act 1989*.

**Amendment of s 3 (Definitions)**

*Clause 21* also provides for an amendment to the defined term "assurance certificate". The amendment is consequential to the amendments being made by clauses 27, 29 and 30 that extend the subject matter about which a certificate may be issued to include not only plants but a thing.

Clause 21 also relocates the dictionary contained in section 3 to the Schedule of the Act.

**Amendment of s 4 (Pest declarations)**

*Clause 22* amends section 4 of the Act which provides that the Minister may declare a pest for the purposes of the Act by way of a Ministerial Notice. The amendment extends the 21 day life of Ministerial Notices for

this pest declaration to 3 months. This extension of time will ensure adequate time is provided to properly identify the pest, the nature of the pest and also to scope a pest infestation.

#### **Amendment of s 8 (Control over introduction of pests)**

*Clause 23* amends section 8 of the Act which provides that the Minister, if satisfied that urgent action is needed, may provide for certain matters by notice to control the introduction of pests. The amendment extends the 21 day life of this kind of Ministerial Notice to 3 months. Again, this extension of time will ensure adequate time is provided to properly identify the nature of the risk and the ability to properly research and refine the technical aspects of conditions that may be required in a follow-up regulation.

#### **Amendment of s 9 (Control over spread of pest infestations within Queensland)**

*Clause 24* amends section 9 of the Act which provides that the Minister, if satisfied that urgent action is needed, may prohibit the movement of any plant, soil, appliance or other specified matter by notice to control the spread of pest infestations within Queensland. The amendment extends the 21 day life of this kind of Ministerial Notice to 3 months. Again, this extension of time will ensure adequate time is provided to properly assess the nature and efficacy of the prohibition before the follow-up regulation is required.

#### **Amendment of s 11 (Pest quarantine area)**

*Clause 25* amends section 11 of the Act which provides that the Minister, if satisfied that urgent action is needed, may declare any area to be a pest quarantine area by notice. The amendment extends the 21 day life of this kind of Ministerial Notice to 3 months. Again, this extension of time will ensure adequate time is provided to properly identify the nature of the risk and the ability to properly research and ensure for the development of sound policy for the basis of the replacement regulation.

#### **Amendment of s 12 (Notification of pests)**

*Clause 26* amends section 12 of the Act which provides for an obligation to notify the presence of a notifiable pest by an owner of any land who



discovers or becomes aware that there is a notifiable pest on the owner's land. The obligation extends to any consultant or contractor engaged by the owner of land but is limited to instances of detection on land.

The amendment extends the obligation to notify in circumstances where the pest is not on land but where a pest may be identified whilst in transit. For instance, the amendment will require a truck driver who discovers a notifiable pest in a load of soil whilst in transit notify the Department of the pest.

#### **Amendment of s 19A (Inspectors' powers—certificates)**

*Clause 27* amends section 19A of the Act which provides a power to an inspector to issue a certificate about a plant. The amendment provides that an inspector could issue a certificate about a plant or other thing that the inspector is satisfied may spread the pest.

Experience in the field has shown that the ability to issue certificates about things may greatly assist community confidence where eradication measure are being taken in respect of a pest. For instance, a business in a quarantine area that sells soil may be placed at a disadvantage if it can't warrant that its soil is free from a pest. An inspector's certificate stating the soil to be free from pest would ensure minimal business interruption in these circumstances.

#### **Insertion of new s 20A**

*Clause 28* inserts a new section 20A into the Act which provides for powers of an inspector in circumstances where there is an imminent risk of infestation to land by a pest. The power is exercisable in an area other than a pest quarantine area, where the chief executive is satisfied that it is necessary to exercise powers under Part 3, Division 3 to avoid an imminent risk of a pest infesting plant or other things. An example of where an imminent risk might exist is where it is discovered that a shipment of soil has moved to a property from a quarantine area against quarantine requirements. Depending on the nature of the quarantine, there may be a high likelihood that the soil is infested with, for example, fire ants.

The power is designed to ensure a measured and rapid response to a pest outbreak. Immediate identification and eradication effort that will be made possible by this power will have the capability to minimise pest incursion and pest spread. Where the chief executive invokes the power, an inspector will have express and transparent capacity to enter land and to take such

action as is reasonable in the circumstances. Utilisation of this power is anticipated to greatly reduce effort that may be required under a regulatory-based quarantine program.

**Amendment of s 21 (Purpose and operation of accreditation system)**

*Clause 29* amends section 21 of the Act which provides for an accreditation system that allows for accredited persons to give assurance certificates about plants. The amendment will allow an accredited person to issue an assurance certificate about a plant or other things that may spread a pest. Importantly, this amendment recognizes that things other than plants may act as a vector in the spread of a pest. Accordingly the amendment will ensure flexibility to issue an assurance certificate in respect of a thing, such as soil or hay, for the purpose of the accreditation system.

**Amendment of s 21J (Offences about certification)**

*Clause 30* amends section 29 J of the Act which provides offences for breach of certification requirements under the accreditation system provided by the Act. It is consequential to the amendment made by clause 29 that allows an accredited person to issue an assurance certificate about a plant or other things that may spread a pest.

## **PART 6—AMENDMENT OF STOCK ACT 1915**

**Act amended in pt 6**

*Clause 31* provides that this part amends the *Stock Act 1915*.

**Amendment of s 4 (Interpretation)**

*Clause 32* amends and omits certain definitions under the Act. Clause 32 relocates the dictionary contained in section 4 to the Schedule 2 of the Act.

### **Insertion of new ss 4D–4J**

*Clause 33* inserts new provisions 4D to 4J which provide for certain administrative matters about inspectors.

### **Appointment and qualifications of inspectors**

*New Provision 4D* provides for the chief executive to appoint a person, from the list set out in the provision, as an inspector. The list is limited to the Local, State or Commonwealth Government employees, veterinary surgeons under the *Veterinary Surgeons Act 1936* and an individual in a class of persons declared under a regulation to be an approved class of person for this section. This list of person is designed to ensure flexibility to appoint persons for temporary purposes to deal with an isolated outbreak. Importantly, such an appointment can only be made if the chief executive is satisfied the person is qualified for appointment because the person has the necessary expertise or experience.

### **Appointment conditions and limit on powers of inspectors**

*New Provision 4E* provides that an inspector holds office on the conditions stated in the inspector's instrument of appointment, under a regulation or notice of the chief executive. Such conditions or limitations will ensure an appropriate cap on inspectorial powers where persons are appointed for limited and/or specialised purposes. Conditions of appointment may require an inspector to provide information or a report to the chief executive about the performance of the inspector's functions or the exercise of the inspector's powers. This provision is designed to ensure inspectors are accountable for the exercise of their statutory powers.

### **Issue of inspector's identity card**

*New Provision 4F* requires the chief executive to provide each inspector with an identity card, containing a recent photograph of the person and other relevant particulars. The purpose of the provision is to ensure inspectors can be easily identified.

### **Production or display of inspector's identity card**

*New Provision 4G* requires that an inspector must produce or display the inspector's identity card before exercising any powers under the Act.

However, provision is also made for the inspector to produce the card at the first reasonable opportunity where it is not immediately practical to do so.

### **When inspector ceases to hold office**

*New Provision 4H* details the circumstances in which an inspector ceases to hold office.

### **Resignation of inspectors**

*New Provision 4I* specifies the conditions and method of resignation of an inspector.

### **Return of inspector's identity card**

*New Provision 4J* provides that when a person ceases to be an inspector, the person must return the identity card to the chief executive. This is to ensure that a person does not represent that the person is an inspector after ceasing to be one.

### **Amendment of s 5 (Chief inspector and other inspectors)**

*Clause 34* amends section 5 of the Act by removing references to certain administrative matters about inspectors. These references are made redundant by **clause 33 of the Bill** that replaces and updates the provisions relating to the appointment of inspectors.

### **Omission of s 5A (Honorary inspectors)**

*Clause 35* omits section 5A of the Act that provides for the chief executive to appoint honorary inspectors. The notion of honorary inspectors is considered to be an outdated form of appointment. New provisions about the appointment of inspectors provided by this Amendment Bill by **clause 33** will allow adequate flexibility in the appointment of inspectors without the need for the use of honorary inspectors.

Under the current Act, police officers are prescribed to be honorary inspectors. Arrangements will be made for the appointment of inspectors on equivalent terms and conditions under the replacement provisions.

### **Insertion of new s 12A**

*Clause 36* inserts a new section 12A into the Act. New section 12A provides the capacity for the chief executive to make an emergency disease notice that declares a disease, disorder, condition or other thing to be a disease for the purposes of the Act (a "declared disease").

Currently, the Act's powers for emergency disease response are only triggered where a disease prescribed under the Act is identified. The power given by the new section 12A to prescribe a disease by an emergency disease notice recognises that definitive diagnosis of new or little known diseases can be a protracted process. Where such diseases are serious, unacceptable delays can be incurred in invoking the legislation to control the disease if the disease has firstly to be identified scientifically, then by legislative process declared a disease.

Importantly, an emergency disease notice is subordinate legislation and remains in force until the day the declared disease is prescribed as a disease under a regulation or the end of 3 months.

### **Amendment of s 27 (Notifiable diseases)**

*Clause 37* amends section 27 of the Act. Section 27 provides for a person's obligations when a notifiable disease or a disease not previously identified exists or is suspected to exist in stock, on any holding or premises or in traveling stock.

The amendment provides that the currently undefined phrase "disease not previously identified" includes, but is not limited to:

- (a) blisters on the mouths or feet of the stock; and
- (b) unexplained or abnormally high mortality rate or morbidity in the stock; and
- (c) a sudden and unexplained fall in production relating to the stock (the example of a sudden and unexplained drop in milk production in a herd of dairy cattle is provided in this amendment clause).

The expression of any of these conditions in stock is considered to be a "classic" indicator of serious disease, thus necessitating a person's obligation to notify. The express description of these conditions will enable the precautionary assessment of stock for serious disease by an inspector.

### **Amendment of s 29 (Powers of inspector)**

*Clause 38* amends section 29 of the Act that provides for inspector's powers. The amendment provides express capacity for an inspector, in the discharge of the inspector's duties, to inspect, and take a copy of, a document at a premises or a holding.

### **Insertion of new s 29A**

*Clause 39* inserts a new section 29A about the production of documents. Section 29A will allow an inspector to require a person to make available a document required to be kept by the person under this Act for inspection, or produce it for inspection, at a stated reasonable time and place.

Together with the amendment provided by **clause 38 of the Amendment Bill**, new section 29A provides clear power to an inspector to inspect and take a copy of a document at premises or a holding necessary for:

- investigation of offences;
- the collection of evidence of an offence; and
- trace forward and trace back purposes.

This power is critical to enable the Department to properly investigate a causal link or identification of a vector for a disease.

Section 29A sets a maximum penalty of 200 penalty units for a failure to comply with an inspector's request under the provision. The failure by a person to cooperate with the provision could result in limitations on the ability to properly investigate a serious disease outbreak. The penalty reflects the potential serious consequences that would flow from such failure.

### **Insertion of new s 39A**

*Clause 40* inserts new section 39A into the Act. Section 39A provides that a person must not feed stock, or allow stock to feed on, any thing the person knows, or ought reasonably to know, has the potential to cause the stock to become infected with an exotic disease.

This general offence provision will capture persons who feed restricted materials to stock, such as scrap foodstuffs that contain meat and other animal products that may harbour exotic disease organisms. Such feeding (known as swill feeding) is reflected by a provision in the *Stock Regulation 1988* that prohibits the feeding of animal material to stock.

It is suspected that outbreaks of foot and mouth disease have been caused by purposely allowing animals to swill feed in the United Kingdom and South Africa. Accordingly, the offence, with its accompanying penalty of 400 penalty units, reflects the grave consequences that may occur in such circumstances.

### **Omission of ss 49 and 50**

*Clause 41* omits sections 49 and 50 of the Act. These sections were inserted into the Act in 1993 and served a transitional purpose only. Accordingly, these provisions are now redundant.

### **Amendment of schedule (Subject matter for regulations)**

*Clause 42* deletes reference to “honorary inspectors” from the subject matter for which regulations can be made. This is consequential on the removal of the power to appoint honorary inspectors (s 5A) by **clause 35** of the Bill.

## **PART 7—REPEAL AND AMENDMENT OF ACTS**

### *Division 1—Repeal of Meat Industry Act 1993*

#### **Repeal**

*Clause 43* provides that the *Meat Industry Act 1993* is repealed. Provisions of the Act will become redundant and will be repealed once meat Food Safety Schemes are made under the *Food Production (Safety) Act 2000*.

### *Division 2—Other amendments*

#### **Amendment of penalties—sch 1**

*Clause 44* provides that Schedule 1 amends the penalties in the Acts it mentions. The penalties are being increased to reflect the gravity of the

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implications of non-compliance with disease of pest control measures. The penalty increases will create a reasonable parity with other similar penalties in the Queensland statute book.

Details of the nature of the penalties, their current level and the increase being made are as follows:

***EXOTIC DISEASES IN ANIMALS ACT 1981***

<b>Penalty Provision</b>	<b>Penalties</b>	<b>Current Penalty</b>	<b>Penalty as increased by clause 44</b>
s. 9(3)	Breach of Infected premises quarantine notice (Entering or leaving or allowing another person to leave an infected premise or bringing onto from an infected premise an animal, carcass, animal product, animal pathogen, biological preparation or property without permission of an inspector or failing to close and secure any gate or door on an infected premise)	200 penalty units or 1 yr imprisonment	2,000 penalty units or 2 yrs imprisonment
s. 11(1)	Movement in infected premises (A person other than an inspector entering or leaving or allowing another person to leave restricted area or bringing into from a restricted area an animal, carcass, animal product, animal pathogen, biological preparation or property without permission of an inspector)	200 penalty units or 1yr imprisonment	2,000 penalty units or 2 yrs imprisonment



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<b>Penalty Provision</b>	<b>Penalties</b>	<b>Current Penalty</b>	<b>Penalty as increased by clause 44</b>
s. 14(2)	Breach of entry/exit notification (Entering or leaving a restricted area or moving an animal, carcass, animal product, animal pathogen, biological preparation, property, vehicle, vessel or fodder other than at notified places of entry or exit)	200 penalty units or 1 yr imprisonment	2,000 penalty units or 2 yrs imprisonment
s. 14(3)	Entry/exit without notification (Failure to give written notice of entry or exit via appointed entry or exit places to a restricted area)	200 penalty units or 1 yr imprisonment	1,000 penalty units or 1 yr imprisonment
s. 15(2)	Check point movement (Passage through any checkpoint established to prevent spread of exotic disease in a restricted area without stopping unless authorised in writing)	100 penalty units or 6 mths imprisonment	1,000 penalty units or 1 yr imprisonment
s. 17(1)	Movement in standstill zone (Continuing to move animals, carcasses, animal products, biological preparations, property, vehicles or vessels specified in a Standstill Notice into, within or out of a Standstill zone without an inspector's approval)	200 penalty units or 1 yr imprisonment	2,000 penalty units or 2 yrs imprisonment
s. 19(2)	Breach of Control Area conditions (Failure to comply with the provisions of a public notice made by the chief inspector of stock or order of an inspector with respect to a control area for exotic disease)	40 penalty units	400 penalty units

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<b>Penalty Provision</b>	<b>Penalties</b>	<b>Current Penalty</b>	<b>Penalty as increased by clause 44</b>
s. 37	False or misleading information re compensation (Knowingly making false or misleading statements or committing a fraudulent act to mislead or defraud the Crown for the purpose of obtaining compensation)	80 penalty units or 6 mths imprisonment	1,000 penalty units or 1 yr imprisonment
s. 39	Forgery of licence (Forging or counterfeiting any licence, permit authority or approval or uttering or using any such licence, permit, authority or approval or impersonating a person in the licence, permit, authority or approval)	80 penalty units or 6 mths imprisonment	1,000 penalty units or 1 yr imprisonment
s. 40(4)	General offence provision (Contravention or failing to comply with the Act or any term, condition or provision of the Act including failure to comply with directions or commit an act which is forbidden, where no penalty is provided)	80 penalty units or 6 mths imprisonment	800 penalty units or 1 yr imprisonment

**THE STOCK ACT 1915**

<b>Penalty Provision</b>	<b>Penalties</b>	<b>Current Penalty</b>	<b>Penalty as increased by clause 44</b>
s. 11 (3)	Contravention of introduction regulations (Introduction or attempted introduction of stock or matter or things in contravention of a regulation)	80 penalty units or 6 mths imprisonment	1,000 penalty units or 1 yr imprisonment

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<b>Penalty Provision</b>	<b>Penalties</b>	<b>Current Penalty</b>	<b>Penalty as increased by clause 44</b>
s. 13 (4)	Infected & declared areas (Failure to remove stock, or introduction or movement into or within an infected or declared area of declared stock, carcass, fodder, fittings, animal product, animal pathogen, or biological preparation which is prohibited with respect to an infected or declared area or contravention of failure to comply with movement conditions or obstruction of testing or treatment of stock etc)	40 penalty units or 6 mths imprisonment	1,000 penalty units or 1 yr imprisonment
s. 14 (1D)	Movement in quarantine without authority (Removal or introduction of stock into or out of a quarantine area without the chief inspector' of stock's written authority)	40 penalty units or 6 mths imprisonment	1,000 penalty units or 1 yr imprisonment
s. 21 (1)	Movement without travel permit (Travelling stock that requires a travel permit without a travel permit)	40 penalty units or 6 mths imprisonment	400 penalty units or 6 mths imprisonment
s. 21 (2)	Place in another's charge to travel stock without a travel permit (Placing stock in charge of a drover or other person for the purpose of a stock movement that requires a travel permit without a travel permit being issued)	40 penalty units or 6 mths imprisonment	400 penalty units or 6 mths imprisonment

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<b>Penalty Provision</b>	<b>Penalties</b>	<b>Current Penalty</b>	<b>Penalty as increased by clause 44</b>
s. 21H	Failure to return cancelled travel permit (Person holding a cancelled travel permit failing to return it to an inspector when requested to do so)	40 penalty units	200 units or 6 mths
s. 21I (1)	Contravention of travel permit conditions (Contravention of the conditions of a travel permit without reasonable excuse)	40 penalty units	400 penalty units or 6 mths imprisonment
s. 21I(2)	Failure of drover to have & produce travel permit for travelling stock (Failure of drover to have in possession and to produce on demand of an inspector a valid travel permit)	40 penalty units	100 penalty units
s. 21K	Issue of travel permit by a person who is not an inspector (Issue or endorsement of a travel permit by anyone other than an inspector)	40 penalty units or 6 mths imprisonment	1,000 penalty units
s. 22 (2)	Failure to complete and give drover a waybill (Failure of the owner of the holding from which stock are moved to complete and give a waybill to the drover before stock are moved from the holding)	40 penalty units	200 penalty units or 6 mths imprisonment

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<b>Penalty Provision</b>	<b>Penalties</b>	<b>Current Penalty</b>	<b>Penalty as increased by clause 44</b>
s. 22 (3)	Failure of person in charge to complete and give the drover a waybill (Failure of the person in charge of selling stock at a saleyard to complete and give an approved waybill for the stock to the drover before the stock leave the saleyard)	40 penalty units	200 penalty units or 6 mths imprisonment
s. 22 (4)	Failure of authorised agent to complete and give waybill to drover (Failure of owner of stock or authorised agent of the owner to complete an approved waybill and give it to the drover before stock start a journey from a holding or saleyard)	40 penalty units	200 penalty units or 6 mths imprisonment
s. 22A(1)	Failure of occupier to retain and produce a waybill for 2 yrs after completed (Failure of the occupier of a holding to retain a waybill for at least 2 years)	40 penalty units	200 penalty units or 6 mths imprisonment
s. 22A(2)	Failure of person in charge of selling stock to retain and produce a waybill for 2 yrs after completed (Failure of a person in charge of selling stock to retain for up to 2 years a waybill and produce a waybill or information to an inspector on demand)	40 penalty units	200 penalty units or 6 mths imprisonment

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<b>Penalty Provision</b>	<b>Penalties</b>	<b>Current Penalty</b>	<b>Penalty as increased by clause 44</b>
s. 22A(3)	Failure of authorised agent to retain and produce a waybill for 2 yrs after completed (Failure of person who completed a waybill to retain a copy for up to 2 years and produce it on demand to an inspector)	40 penalty units	200 penalty units or 6 mths imprisonment
s. 22B(1)	Drover travelling stock without a waybill (Drover travelling stock without a waybill)	40 penalty units	200 penalty units or 6 mths imprisonment
s. 22B(2)	Drover failing to possess and produce waybill while travelling stock (Drover failing to have in possession and produce on demand a waybill for travelling stock)	40 penalty units	200 units or 6 mths
s. 22B(3)	Drover failing to retain and produce a waybill for travelled stock for 2 yrs after completed. (Drover, where stock are not delivered to another person, failing to retain for up to 2years and produce on demand to an inspector a waybill for the travelled stock)	40 penalty units	200 penalty units or 1 yr imprisonment

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<b>Penalty Provision</b>	<b>Penalties</b>	<b>Current Penalty</b>	<b>Penalty as increased by clause 44</b>
s. 22B(6)	Possession of waybill by drover that the drover knows if false or misleading. (Possession by a drover of a waybill or copy of a waybill that the drover knows is false or misleading in a material particular, and failing to advise the inspector where the waybill is false or misleading)	40 penalty units	200 penalty units or 6 mths imprisonment
s. 22C(1)	Acceptance of delivery of stock from a drover without delivery of an approved waybill (Person accepting delivery of stock without a waybill, unless the person has a reasonable excuse)	40 penalty units	200 penalty units or 6 mths imprisonment
s. 22C(2)	Delivery of stock by drover without delivery of approved waybill (Drover failing to provide a waybill for delivered stock unless the drover has a reasonable excuse)	40 penalty units	200 penalty units or 6 mths imprisonment
s. 22D	Failure of person to retain and produce a waybill for up to 2 yrs after delivery (Failure of person taking delivery of stock to keep for up to 2 years a waybill and produce it on demand to an inspector)	40 penalty units	200 penalty units or 6 mths imprisonment
s. 22E	Entering false or misleading information in waybill (Person knowingly making false or misleading information on a waybill)	40 penalty units or 6 mths imprisonment	1,000 penalty units or 1 yr imprisonment

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<b>Penalty Provision</b>	<b>Penalties</b>	<b>Current Penalty</b>	<b>Penalty as increased by clause 44</b>
s. 22H(3)	Failure of drover to comply with request for examination of waybill (Failure of drover to allow the owner of a holding to examine stock unless the drover has a reasonable excuse)	20 penalty units	100 penalty units
s. 22I	Failure of drover to report escape of travelling stock (Failure of drover to report escape of travelling stock at the earliest reasonable opportunity to an inspector of owner of a holding)	40 penalty units	100 penalty units
s. 30 (12)	Obstruction of officer in exercise of duties under a disease eradication program (Obstruction of an inspector or authorised veterinary surgeon in the exercise of powers under the Act)	20 penalty units Daily penalty 2 penalty units	600 penalty units
s.33(4)	Failure to comply with directions to control residue disease (Contravention of directions to prevent residue disease of stock)	40 penalty units or 6 mths imprisonment	400 penalty units or 6 mths imprisonment
S 39A	Feeding particular things to stock (feeding or allowing access to animal matter or animal contaminated matter or stock feed containing a ruminant feed warning statement)	Previously no offence in the Act, only the general offence against a regulation – 20 penalty units or 6 mths imprisonment	40 penalty units



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<b>Penalty Provision</b>	<b>Penalties</b>	<b>Current Penalty</b>	<b>Penalty as increased by clause 44</b>
S 42 (4)	General offence penalty (General offence penalty where no penalty is expressly provided)	20 penalty units or 6 mths imprisonment	400 penalty units or 40 penalty units if against a regulation

### **Acts amended - sch 2**

*Clause 45* provides that Schedule 2 amends the Acts it mentions. The amendments made are of a very minor technical nature.

## **AGRICULTURAL STANDARDS ACT 1994**

Item 1 changes the heading of section 67 of the Act from "Regulations" to "Regulation-making power". This change reflects current drafting practice.

Item 2 is consequential on the amendment made by **clause 4** of the Bill to move the definitions to the Schedule. It inserts a new heading "Schedule. Dictionary".

## **EXOTIC DISEASES IN ANIMALS ACT 1981**

Item 1 amends section 12(1)(a) of the Act (Powers of inspectors in order to eradicate and prevent spread of exotic disease) to clarify that the sub paragraphs in the section are alternatives. This is done by the insertion of "or" between sub paragraphs 12(1)(a)(i) and 12(1)(a)(ii).

Item 2 amends section 12(1)(a) of the Act (Powers of inspectors in order to eradicate and prevent spread of exotic disease) to clarify that the powers in paragraphs (a) and (b) are to be used in conjunction with one another.

This is done by the insertion of “and” between paragraphs 12(1)(a) and 12(1)(b).

Item 3 is consequential on the amendment made by **clause 7** of the Bill to move the definitions to Schedule 2. It inserts a new heading "Schedule 2. Dictionary".

Item 4 amends section 20(1) of the Act (General powers of inspectors) by inserting as an example of killing a vector of exotic disease “killing the vector by poisoning it”. This amendment is consequential on the amendment made to section 20 by **clause 12** of the Bill to include baiting as a means of destroying vectors of exotic disease.

Item 5 changes the heading of section 47 of the Act from "Regulations" to "Regulation-making power". This change reflects current drafting practice.

Item 6 amends section 47(2) of the Act by changing reference to “Schedule 2” to “Schedule 1”. This amendment is merely reflects the renumbering of the Schedule by **item 8** to reflect the fact that the former Schedule was omitted from the Act by former amending legislation.

Item 7 amends Schedule 2 of the Act (Subject matter for regulations) by deleting section 15 that provided for the penalty for breach of the regulations. This amendment is consequential on the amendment made by **clause 16** of the Bill that moves the regulation maximum penalty provision to section 47.

Item 8 renumbers schedule 2 of the Act as schedule 1. This amendment is merely a renumbering of the Schedule to reflect the fact that the former Schedule was omitted from the Act by former amending legislation.

Item 9 is consequential on the amendment made by **clause 7** of the Bill to move the definitions to Schedule 2. It inserts a new heading "Schedule 2. Dictionary".

## **FISHERIES ACT 1994**

Item 1 clarifies a number of definitions in the Schedule to the Act. Those definitions all footnote references to relevant sections of the Act that are relevant to the definitions. The amendment clarifies the definitions by

removing the footnotes and referring to relevant sections directly within the definitions.

## **JUDICIAL REVIEW ACT 1991**

Item 1 amends Schedule 1, Part 1 of the Act which lists enactments that provide for non-review or limited review of decisions to include reference to section 22 of the *Exotic Diseases in Animals Act 1981*. This amendment is consequential on the amendment made by **clause 14** of the Bill. **Clause 14** inserts a new section 24A into the *Exotic Diseases in Animals Act 1981* that removes the Court's power to issue an injunction to prevent the carrying out an order to destroy animals made under section 22.

## **PLANT PROTECTION ACT 1989**

Item 1 is consequential on the amendment made by **clause 21** of the Bill to move the definitions to Schedule 2. It inserts a new heading "Schedule. Dictionary".

## **STOCK ACT 1915**

Item 1 amends the heading of section 4 of the Act from "Interpretation" to "Definitions". This amendment reflects current drafting practice.

Item 2 renumbers sub-section 4(2) as section 4A. This amendment is consequential to the amendment made by **clause 32** of the Bill to move the definitions contained in section 4(1) to Schedule 2 of the Act. The amendment also that the reference to "a person" in the section is a reference to a person in possession of something.

Item 3 renumbers sub-section 4(3) as section 4B. This amendment is consequential to the amendment made by **clause 32** of the Bill to

move the definitions contained in section 4(1) to Schedule 2 of the Act. The amendment also clarifies that the expression “in this Act” used in the section means references to diseased matter or thing in the Act.

Item 4 rennumbers sub-section 4(4) as section 4C. This amendment is consequential to the amendment made by clause **clause 32** of the Bill to move the definitions contained in section 4(1) to Schedule 2 of the Act. The amendment also clarifies that the expression “a condition” used in the section means chemical or antibiotic residue that may be prescribed as a disease.

Item 5 amends section 48(2) of the Act (Regulations) to amend reference to “the schedule” to reference to “schedule 1”. This amendment is consequential to the amendment made by **clause 32** of the Bill to move the definitions contained in section 4(1) to Schedule 2 of the Act.

Item 6 rennumbers the schedule to the Act as “schedule 1”. This amendment is consequential to the amendment made by **clause 32** of the Bill to move the definitions contained in section 4(1) to Schedule 2 of the Act.

Item 7 is consequential on the amendment made by **clause 32** of the Bill to move the definitions to Schedule 2. It inserts a new heading "Schedule 2. Dictionary".