

Agriculture and Other Legislation Amendment Bill 2019

Explanatory Notes

Short title

The short title of the Bill is the *Agriculture and Other Legislation Amendment Bill 2019* (the Bill).

Policy objectives and the reasons for them

The Bill is an ‘omnibus’ Bill which addresses a number of impediments, identified over the past several years, to the efficient and effective regulation of agriculture; animal management and welfare; forestry; and fisheries. For convenience, the Bill also addresses two unrelated matters - concerning the Racing Integrity Commission and threatened species classification. Following are the most significant specific objectives for the miscellaneous amendments contained in the Bill.

Addressing the risks posed by certain protest actions

Unauthorised entry by animal activist protestors to places where animals are kept in Queensland has been occurring more frequently, particularly in the past year. These protests have produced fear and anger among those involved in relevant industries. Such protest action may also have adverse economic impacts and pose risks to human safety, animal welfare, biosecurity and food safety.

For example, unauthorised entry to a place where animals are kept could introduce or spread an animal disease. People can carry and thus spread many serious animal diseases on their skin, clothing, footwear, vehicles and equipment if strict biosecurity measures are not maintained. There are also a range of zoonotic diseases (which infect both humans and animals), such as swine flu, that can spread by contact between humans and animals. Animal disease transmission has significant economic, environmental and regional community impacts. It could devastate Queensland’s \$6 billion livestock industry, which would be catastrophic for the State’s regional communities.

The Bill includes amendments to the *Summary Offences Act 2005* *Biosecurity Act 2014* and *Exhibited Animals Act 2015* to enhance the potential to prosecute persons who trespass or protest in another inappropriate way and provide penalties for the offending that reflect community concern and which address the serious risks that may be posed by the protest activities.

The Palaszczuk Government supports the right of individuals to protest lawfully in Queensland. Although animal rights protests were the impetus for these amendments, it is certain behaviours that the amendments regulate, and not particular views and groups. The regulated behaviour is

not unique to animal rights protests and the amended provisions will apply equally to all Queenslanders.

Timely amendment of biosecurity zones

Biosecurity zones, under the *Biosecurity Act 2014*, are established to manage, reduce or eradicate biosecurity matter, such as pests or diseases, which may have an adverse effect on human health, social amenity, the economy or the environment. Biosecurity zones are critical to some of Queensland's most significant biosecurity responses, such as imposing movement restrictions for carriers of Red Imported Fire Ants and carriers of White Spot Disease in prawns

Biosecurity zones may prohibit or regulate dealings with biosecurity matter or carriers of biosecurity matter and may direct eradication of biosecurity matter or establish areas within the zone where lesser restrictions apply. *The Biosecurity Act 2014* provides that a regulation may include provisions for the establishment of a biosecurity zone and that a biosecurity zone may be identified by reference to an area outlined on a map.

The Biosecurity Act 2014 does not expressly provide for the amendment of a biosecurity zone, once it is established, by way of amending the map which identifies the area. In the absence of any express statutory power to amend a biosecurity zone, a change to a zone must currently be made in the same way as a biosecurity zone is established: by amending the *Biosecurity Regulation 2016*. This is not practical as the distribution of some biosecurity matter can change frequently.

The Bill would facilitate management of animal and plant pests and diseases using biosecurity zone regulatory provisions by enabling more timely changes to the boundary of a biosecurity zone.

Animals in hot vehicles

Animals can quickly begin to suffer in the heat when confined without shade, air movement and access to cool drinking water, such as in a vehicle. Dogs are particularly at risk as they cool themselves by panting. If the air around becomes hot they are physically unable to regulate their body temperature, particularly if they don't have access to water. A dog can die due to being left in a parked car without air conditioning for less than 10 minutes and measures such as winding down the windows have little effect.

The Bill would promote animal welfare by clarifying that a person in charge of an animal may be guilty of serious animal welfare offences if they inappropriately confine or transport it.

Empowering animal welfare inspectors to help abandoned animals

An inspector appointed under the *Animal Care and Protection Act 2001* can only enter premises without a warrant or consent to investigate abandonment of an animal if the animal is at imminent risk of death or injury. This has led to situations where an animal's welfare has had to deteriorate to the stage where it is at imminent risk of death or injury before an inspector can enter the premises to take reasonable actions to prevent the animal from suffering further. RSPCA Qld inspectors investigate the majority of animal welfare complaints involving abandoned animals and because of the large numbers of abandonment cases reported each year to the RSPCA Qld, it is not practical to obtain warrants for entry in all cases. The Bill would

promote animal welfare by enhancing the power of inspectors to enter premises to help abandoned animals.

Facilitating investigation of animal welfare offences

Motor vehicle registration details are sometimes relevant to investigations into an animal welfare offence, particularly where a vehicle has been used in committing an offence. Since 2012, there has been an interim arrangement for the exchange of motor vehicle registration details under a memorandum of understanding between the Department of Agriculture and Fisheries (DAF) and the Department of Transport and Main Roads (TMR) but it is preferable for the exchange to be explicitly authorised by Parliament.

The Bill would assist enforcement of the *Animal Care and Protection Act 2001* by requiring the sharing of motor vehicle registry information about a vehicle that is suspected of having been used in the commission of an animal welfare offence.

Reuniting lost dogs with their owner

Suppliers of dogs must ensure they are implanted with a prescribed permanent identification device, commonly referred to as a microchip, so that they can be returned to their owners if found. New owners are supposed to notify the change of ownership details to the relevant microchip registry which recorded the ownership details when the dog was first microchipped. However, difficulties arise where new owners are not provided with the microchip and registry details.

The Bill would amend the *Animal Management (Cats and Dogs) Act 2008* to help reunite lost animals with their owner by ensuring a new owner is provided with a form that will help them to comply with the requirement to update details held by a microchip registry.

Reports about exceeding a maximum residue limit

The *Chemical Usage (Agricultural and Veterinary) Control Act 1988* prescribes maximum residue limits (MRLs) for certain chemicals in or on a relevant thing or trade species (food-producing) animals. Exceeding an MRL is not an offence but it must be reported so that appropriate action can be taken. Reports trigger an assessment of the risks of acute dietary intake in humans and trade species animals and may trigger an investigation into whether the chemical has been used appropriately.

The Bill amends the *Chemical Usage (Agricultural and Veterinary) Control Act 1988* to clarify the reporting requirements and ensure that the reports are specific and sufficiently detailed to be easily used to prioritise the management of each incidence of a residue greater than an MRL.

Authorise the use of body-worn cameras by authorised officers and inspectors

Body-worn cameras are a useful device for law enforcement officers as they assist officers to gather evidence of offences, provide a record of verbal orders and directions and assist in the investigation of complaints. Their use is becoming more common in agencies which have an enforcement or legislative compliance function.

The Bill amends several Acts in the Agricultural Industry Development and Fisheries portfolio where appointed officers have significant compliance and enforcement functions to provide for the use of body-worn cameras. While the amendments would authorise the use of body worn cameras, a trial of their use in particular circumstances is still being designed and decisions have not yet been made about how widely they will be deployed.

Expand access to farm business debt mediation

The *Farm Business Debt Mediation Act 2017* provides a structured process for mediation to occur between farmers and mortgagees to resolve issues relating to farm business debts. The Act obliges a mortgagee to offer mediation to a farmer before the mortgagee may take enforcement action under the mortgage.

Some farmers who have borrowed money to buy property could currently be excluded from mediation because the property is held in a different name. Also, where mediation is initiated, there may be other borrowers or persons with an interest in the property (such as a partner) who could currently be excluded from participating.

The Bill would amend the *Farm Business Debt Mediation Act 2017* to extend access to mediation to additional farmers and clarify that some other affected persons may participate.

More efficient procedures to remove wild stock and abandoned vehicles from State forest

Wild stock in a state forest, timber reserve, forest entitlement area or forest consent area pose risks such as environmental degradation of land through grazing, damage to trees (particularly new plantings and young trees) and may be hazards to forest operations and road safety. Risks are also posed by vehicles which have been illegally abandoned in forests, particularly those near urban areas, for example Beerburrum State Forest in South-East Queensland. Vehicles pose fire, safety, public health and environmental risks and their abandonment attracts acts of vandalism and arson that further endanger the community and the State's plantation forest assets. The risks posed by wild stock and abandoned vehicles increase the longer they remain.

The Bill amends the *Forestry Act 1959* to streamline and simplify procedures for removing wild stock and abandoned vehicles from State forest.

Classification of threatened species under the *Nature Conservation Act 1992*

Nominations to add, delete or reclassify the conservation status of a species, under the *Nature Conservation Act 1992*, come from various sources, including scientific experts and members of the public. Independent scientific assessment of each nominated species is provided by a Species Technical Committee which makes recommendations for consideration by the Minister responsible for that Act. In November 2018, the Queensland Audit Office (QAO) identified concerns with delays in the listing process, and recommended that the Act be amended so that the Minister's decision on whether or not to progress a change occurs within a specified timeframe.

The Bill amends the *Nature Conservation Act 1992* to ensure that timely decisions are made on the conservation status of a species by implementing the QAO's recommendation.

Clarify the responsibilities of the Queensland Racing Integrity Commission

Reforms established under the *Racing Integrity Act 2016* separated the functions of the previous Queensland All Codes Racing Industry Board across two separate bodies: the Racing Queensland Board and the Queensland Racing Integrity Commission (the Commission). The *Racing (Transitional) Regulation 2016* provided for the Rules of Racing to be read and applied in accordance with the functions and powers provided to the Commission under the *Racing Integrity Act 2016*. The transitional regulation-making power has now expired so legislative clarification of the Commission's powers under the Rules of Racing can now only occur through an Act amendment.

Clarifying the Commission's powers by an amendment of the *Racing Act 2002* in the Bill remains desirable despite recent changes to the Rules of Racing which have reduced the risk of legal challenge to the Commission's powers.

Amendments concerning boards and committees

The Bill will help ensure boards and statutory bodies in the Agriculture Industry Development and Fisheries portfolio can continue to function effectively when a board chairperson or chief executive officer (CEO) is unable to perform their duties, resigns or pending formal appointment of an ongoing chairperson or CEO by the Governor in Council.

The Bill will also help ensure that the timing of elections for membership of the Veterinary Surgeons Board of Queensland will enable new appointments to be made before those of existing elected members expire.

The Bill will provide flexibility about advisory committees on food safety.

Improve traceability of goats

Traceability of livestock is critical in a biosecurity emergency as well as to enable market access. The *Biosecurity Act 2014* currently exempts feral (rangeland) goats from having approved identification devices before being moved in certain situations. However, audits in Queensland and other jurisdictions indicate the current exemptions are being misused. Some meat processing facilities are dealing with untagged goats originating from places other than properties which sourced them from the wild. These movements present an increased biosecurity risk and compromise traceability.

The Bill would help ensure Queensland livestock is traceable by amending the *Biosecurity Act 2014* to omit an exemption from approved device requirements for certain goats.

Achievement of policy objectives

Addressing the risks posed by certain protest actions

The *Summary Offences Act 2005* currently includes an offence for unlawful entry to a dwelling or its yard or a place used for a business purpose or its yard (section 11), which carries a maximum penalty of 20 penalty units or one year's imprisonment. It also includes a particular

offence for unlawful entry to farming land (section 13) which carries a maximum penalty of 10 penalty units or six month's imprisonment.

Clause 133 of the Bill would amend section 13 (Unlawfully entering farming land etc.) to double the maximum penalty to 20 penalty units or one year's imprisonment. The new maximum penalty would be the same as for unlawful entry to a dwelling. This will reflect that lawful farm owners may experience similar levels of fear and intimidation as a result of unauthorised entry to farm land, especially in relatively isolated rural and regional communities.

Clause 133 will also extend the existing offence in section 13 to land used for a broader range of purposes related to animal keeping and other agriculture. For example, it will extend to land used for tree farming and felling, animal exhibitions, and animal holding facilities, such as an abattoir, agricultural showground or live export holding facility.

Section 10A (Unlawful assembly) of the *Summary Offences Act 2005* currently establishes that an assembly of three or more persons becomes unlawful if their conduct taken together would cause a person in the vicinity to reasonably fear that unlawful violence will be used. It carries a maximum penalty of one year's imprisonment or two year's imprisonment if there is violence.

Clause 132 of the Bill would amend section 10A to also make a gathering of three or more persons unlawful if the gathering is on land used for a range of purposes related to animal keeping and other agriculture and there is a risk to the safety of a person or food, or a risk to animal welfare or biosecurity or a reasonable risk of economic loss. In this way, the amended offence will address the combined seriousness of the broad range of risks that may be posed by inappropriate protest action on such land. The maximum penalty currently associated with section 10A would be unaltered.

Clause 29 of the Bill would amend the *Biosecurity Act 2014* to clarify that a person entering, being present at or leaving a place where biosecurity matter or a carrier is present has an obligation (the 'general biosecurity obligation') to minimise the biosecurity risks they ought reasonably know are associated with their activity. The existing maximum penalty for a breach of the general biosecurity obligation is generally 500 penalty units but may be up to 3000 penalty units in some circumstances. Establishing that a person entering, being present at or leaving a place has a general biosecurity obligation has several important implications.

Firstly, the clarification of the general biosecurity obligation allows a regulation to be made under section 25 (Effect of regulation for discharge of general biosecurity obligation) of the Act requiring a person to fulfil that obligation in a particular way. Clauses 46 and 49 of the Bill replace the standalone offence in section 41C (Requirement to comply with biosecurity management plan) of the *Biosecurity Regulation 2016*, with a requirement made under section 25 of the Act to fulfil the general biosecurity obligation by complying with a biosecurity management plan when entering, being present at or leaving a place where signs advised that there is a plan in force. The requirement to comply with the plan is almost identical but the effect is to increase the maximum penalty for non-compliance with a biosecurity management plan by 2500 per cent - from 20 penalty units to 500 penalty units (or higher in some circumstances).

Secondly, the clarification of the general biosecurity obligation empowers an inspector under the Act to give a biosecurity order to a protestor who enters a property if the inspector

reasonably believes they may not be discharging that obligation. For example, the order could require the activist to stop certain activities which are exacerbating biosecurity risks or to take certain action in order to minimise the biosecurity risks associated with their activities. There is an existing offence for non-compliance with a biosecurity order which carries a maximum penalty of 800 penalty units.

Clause 78 amends the *Exhibited Animals Act 2015* to require that a person not cause or increase a relevant (animal welfare, biosecurity or public safety) risk and must comply with reasonable instructions from someone responsible for an exhibited animal to enable him or her to manage a relevant risk. The maximum penalty for non-compliance with this obligation is 100 penalty units. The Bill also provides a power for an inspector under the *Exhibited Animals Act 2015* to direct a non-compliant person to leave or move away from the place.

Timely amendment of biosecurity zones

Clause 31 of the Bill facilitates more timely amendment of a biosecurity zone by enabling the chief executive to approve the amendment of a biosecurity zone map if a regulation refers to it as being ‘as in force from time to time’. The map may be amended on an as needs basis if the distribution of a pest or disease changes or if information becomes available to change knowledge of the pest’s distribution. Biosecurity zone maps must be publicly available on the department’s website and the chief executive must inform affected stakeholders of changes to the biosecurity zones.

Animals in hot vehicles

The Bill would promote animal welfare by clarifying that a person in charge of an animal may be guilty of breaching their duty of care to the animal under section 17 of the *Animal Care and Protection Act 2001* if they inappropriately confine or transport it and may be guilty of animal cruelty if the animal experiences heat stress or other pain as a result. Clause 4 will amend section 17 to clarify that the duty of care to ensure the appropriate handling of an animal, includes confining or transporting animals. This ensures that a person who confines or transports an animal in a vehicle in which it was unlikely to be able to regulate its body temperature may be breaching their duty of care to the animal even if, for example, the animal was rescued before the animal actually suffered heat stress or other pain. Clause 5 amends section 18 (Animal cruelty prohibited) to insert an example clarifying that a person may be guilty of animal cruelty if they confine an animal in or on a vehicle in a way that caused heat stress or other pain.

Empowering animal welfare inspectors to help abandoned animals

The Bill would promote animal welfare by amending the *Animal Care and Protection Act 2001* to empower animal welfare inspectors to enter premises without a warrant, where an animal has been abandoned irrespective of its condition. As a safeguard to the exercise of this power, the Bill requires that an inspector must first make a reasonable attempt to locate and contact the owner of the animal or the occupier of the premises prior to entry.

Facilitating investigation of animal welfare offences

The Bill would support enforcement of the *Animal Care and Protection Act 2001* formalising the sharing of motor vehicle registry information with inspectors who have a reasonable

suspicion that a vehicle has been used in the commission of an animal welfare offence. Inspectors will be able make requests of the chief executive of the department in which the *Transport Operations (Road Use Management) Act 1995* is administered, upon payment of a fee, to provide details of the owner of a vehicle the inspector reasonably suspects was used in the commission of an offence. The chief executive of the department in which the *Transport Operations (Road Use Management) Act 1995* is administered must provide the information sought if the chief executive considers the information may be used to identify the vehicle's owner.

Reuniting lost dogs with their owner

The Bill would amend the *Animal Management (Cats and Dogs) Act 2008* to help reunite lost dogs with their owner by requiring suppliers of dogs to provide the new owner with a signed microchip transfer form, which may be sent to the microchip registry to record the change of ownership of the animal. This will help the new owners to meet their obligation under that Act to notify a microchip registry of the dog's change of ownership details within seven days of the change occurring.

Reports about exceeding a maximum residue limit

The Bill amends the *Chemical Usage (Agricultural and Veterinary) Control Act 1988* to consolidate and simplify the requirements for persons to notify the Standards Officer when residues exceed maximum residue limits. It also ensures that information provided over several reports can be easily linked to provide a complete picture of the incident.

Authorise the use of body-worn cameras by authorised officers and inspectors

The Bill amends the *Animal Care and Protection Act 2001*, *Biosecurity Act 2014*, *Chemical Usage (Agricultural and Veterinary) Control Act 1988*, Part 5B of the *Drugs Misuse Act 1986* and *Exhibited Animals Act 2015* to insert provisions, modelled on current provisions in the *Fisheries Act 1994*, which provide for the use of body worn cameras.

Expand access to farm business debt mediation

The Bill amends the *Farm Business Debt Mediation Act 2017* to extend the right to mediation to all farmers who have borrowed money, secured by a mortgage over farm property, and to enable a mediator to allow other borrowers persons who have a legal or equitable interest in the farm property to participate in the mediation.

More efficient procedures to remove wild stock and abandoned vehicles from State forest

The Bill amends the *Forestry Act 1959* to reduce the pre-muster notification period for wild stock to five business days and require the notice to be given only to neighbouring landholders and persons reasonably believed to be the owner of the stock.

The Bill also amends the *Forestry Act 1959* to give a forest or plantation officer power to seize, remove and detain vehicles that they reasonably believe have been abandoned. The Bill also makes amendments to ensure plantation officers are provided with relevant powers required to deal with detained vehicles and to facilitate their disposal.

Classification of threatened species under the *Nature Conservation Act 1992*

The Bill amends the *Nature Conservation Act 1992* to ensure that timely decisions are made on the conservation status of a species by requiring that the Minister responsible for that Act must decide within 30 days of receiving a species' recommendation whether to recommend its amendment under the Regulation to the Governor in Council.

Clarify the responsibilities of the Queensland Racing Integrity Commission

The Bill clarifies if the nationally developed rules for the three codes of racing indicate that a function of the Commission is to be performed by an entity, then it is in fact the Commission and not the entity that may perform the function. Proposed section 113A of the *Racing Act 2002* provides that such actions which are the responsibility of the Commission include the appointment of stewards and administration of penalties to participants. The Bill also inserts transitional and validating provisions that make application of the newly inserted section 113A retrospectively effective from 1 July 2017, which is when the transitional regulation expired.

Amendments concerning boards and committees

The Bill amends the *Food Production (Safety) Act 2000* and the *Rural and Regional Adjustment Act 1994* to enable the appointment by the Minister of an acting chairperson to the Safe Food Production QLD (Safe Food) Board and the Queensland Rural and Industry Development Authority (QRIDA) Board, respectively. The Bill also enables the Safe Food Board to appoint an acting CEO. The *Acts Interpretation Act 1954*, section 24B(5) puts a twelve month time limit on all these acting appointments; it provides that a person appointed to act in an office must not act for more than one year during a vacancy in the office. The Bill also specifies resignation procedures for Safe Food Board directors and the QRIDA CEO.

The Bill also amends the *Food Production (Safety) Act 2000* to omit mention of the Food Safety Advisory Committee, and provide for the Minister to establish an advisory committee to provide advice on specific food safety matters (as and when necessary).

The Bill amends the *Veterinary Surgeons Act 1936* to allow sufficient time for appointment of elected members to the Veterinary Surgeons Board before former elected members' terms expire.

Improve the traceability of goats

The Bill omits the current exemption from approved National Livestock Identification System (NLIS) identification device requirements for goats travelling direct from a place in the wild ('rangeland goats') to a sorting place and then direct from the sorting place to a meat processing facility. The Bill requires a person to hold a travel approval for the movement of goats in these circumstances. However, it maintains the ability for the chief executive to issue a travel approval for the movement if it complies with the nationally agreed "Industry NLIS standards for operating a goat depot and user manual (standard operating procedures)".

Other amendments

There are a large number of other amendments contained in the Bill which broadly address impediments to the efficient and effective regulation of agriculture; animal management and

welfare; forestry; and fisheries. How these amendments achieve that purpose is discussed in the notes on the relevant provision of the Bill.

Alternative ways of achieving policy objectives

Addressing the risks posed by certain protest actions

Legislation is the only way to enhance the potential to prosecute persons who trespass or protest in another inappropriate way and provide penalties for the offending that reflect community concern and which address the risks that may be posed.

There are alternative legislative approaches that could be taken to achieving this objective. For example, a Private Member's bill, the Criminal Code (Trespass Offences) Amendment Bill 2019, which was introduced into Parliament on 1 May 2019, proposes to introduce new offences related to trespass and other unlawful behaviour into the Criminal Code.

Timely amendment of biosecurity zones

The management of animal and plant pests and diseases using biosecurity zone regulatory provisions could continue without the amendments proposed in the Bill but could be less effective and less transparent where there were frequent changes to the distribution of biosecurity matter.

For example, the biosecurity zone described for red imported fire ants (RIFA) is currently changed infrequently despite fairly regular changes to the distribution of this pest at the margin of its range. Where it is found outside the zone, people undertaking high risk movements of carriers in the surrounding area are identified and advised that RIFA has been found nearby and advised that they have a general biosecurity obligation to minimise the risk that their activities not spread fire ants. They are provided with information mirroring the requirements under biosecurity zone regulatory provisions as a guide to how they can meet their obligation. If they fail to discharge their obligation it would be open to an inspector to give them a biosecurity order requiring them to discharge it according to the guidance provided.

This alternative approach is very indirect and is less transparent – the biosecurity zone map does not reflect the true distribution of fire ants at any time. The Queensland public and Commonwealth, State and Territory governments, which are contributing significantly to the \$411 million Red Imported Fire Ant Eradication Program over 10 years, expect a highly agile program, responsive to expansions and contractions in the extent of spread of fire ants. The alternative approach falls short of that expectation.

Animals in hot vehicles

An alternative to the amendments in the Bill would be to provide a specific offence for leaving an animal in a hot vehicle. However, it is widely agreed that existing offences already address this behaviour. For example, the Animal Welfare Advisory Board considers the current powers of inspectors sufficient to deal with people leaving dogs in cars. It is unnecessary to create a new offence when existing offences already apply. Overlapping offences are particularly undesirable due to the potential for double penalties.

A penalty infringement notice specific to where an animal is confined in a vehicle, could be prescribed for the breach of a duty of care or animal cruelty offences under the *Animal Care and Protection Act 2001*. The amendments in the Bill do not preclude this approach being taken in the future.

Empowering animal welfare inspectors to help abandoned animals

The only alternative to the amendments in the Bill is for inspectors to continue obtaining warrants for entry to premises when animals are abandoned. Given the number of reports of abandoned animals which are made each year, the majority of which are investigated by the RSPCA Qld, this option is not supported. This option does little to address animal welfare concerns for those animals which are abandoned but are not at risk of imminent death or injury.

Facilitating investigation of animal welfare offences

The main alternative to a legislated provision authorising an exchange of information between DAF and TMR is to continue to rely on the existing memorandum of understanding that allows for information sharing. However, this memorandum was only ever intended to be a temporary measure, and legislation is the only way to ensure the ongoing information sharing arrangements between the two agencies.

Reuniting lost dogs with their owner

The main alternative to the amendments in the Bill would be to conduct campaigns designed to educate the general community of the benefits of maintaining up to date dog microchip information and the necessity to provide transfer of ownership forms to achieve this. However, an education campaign on its own may not be sufficient to address the problem.

Reports about exceeding a maximum residue limit

Legislation is the only way to clarify the reporting requirements. Not maintaining strict reporting requirements will ultimately compromise access of Queensland's agricultural produce to domestic and export markets.

Authorise the use of body-worn cameras by authorised officers and inspectors

Legislation is the only way to be certain that use of body worn cameras does not breach privacy legislation. The amendments include safeguards on the confidentiality of information obtained through their use.

Expand access to farm business debt mediation

Legislation is the only way to expand who is a farmer who can access farm business debt mediation. A mediator could currently exercise discretion to allow others persons who are borrowers or have an interest in the farm property could currently be allowed to participate under section 37(2)(c) of the *Farm Business Debt Mediation Act 2017*. The proposed amendment is preferred because it clarifies that it may be appropriate.

More efficient procedures to remove wild stock and abandoned vehicles from State forest

An alternative to amendments in the Bill relating to removing wild stock would be to reduce the length of time during which a person can claim ownership of mustered stock. This has potential to result in stock being disposed of before the owner has had an opportunity to claim them.

An alternative to amendments in the Bill for abandoned vehicles from State forest would be to require the Plantation Licensee to obtain approval from the chief executive prior to dealing with the vehicle. While this approach would retain a higher level of State control over each decision made by the Plantation Licensee to seize, remove and dispose of an abandoned vehicle, it would not be as efficient in reducing the risk of fire, removing hazards to safety and public health and reducing environmental risks.

Classification of threatened species under the *Nature Conservation Act 1992*

Alternatives to the amendments in the Bill were not considered as they would fail to fully implement the recommendation of the QAO.

Clarify the responsibilities of the Queensland Racing Integrity Commission

An alternative to the amendments in the Bill is to seek amendment of the national Rules of Racing. This option has been pursued over several years but has not completely addressed the uncertainty and does not deal with periods before the certain amendments were made to those rules.

The amendments proposed in the Bill are the only way to provide absolute clarity. Not providing retrospective validation could undermine some of the Racing Integrity Commission's past actions.

Amendments concerning boards and committees

Arrangements for the relevant boards and committee are described in legislation and a Bill is the only way to amend these arrangements.

Improve the traceability of goats

The amendments in the Bill are the only way to remove the exemption for rangeland goats.

Estimated cost for government implementation

Implementation costs for the Government will be met from within existing resources. Relevantly, costs incurred by QRIDA due to the amendments to the *Farm Business Debt Mediation Act 2017* to extend access to mediation, will be minimal as the costs of mediation are borne by each party attending mediation. Costs incurred in education of police and biosecurity officers and communication with stakeholders about amendments to address animal activism will also be met from within existing budgets.

Some amendments will improve regulatory efficiency such as the giving of notices electronically and accordingly this will not result in any implementation costs.

Increasing the period a seized animal may be retained (see clause 10) will increase costs for the RSPCA Qld which undertakes the majority of animal welfare investigations and houses and cares for seized animals. The costs incurred for the additional time that seized animals are retained will be met from within existing RSPCA Qld resources. The Government provides the RSPCA Qld with a number of grants.

Consistency with fundamental legislative principles

Legislation should have sufficient regard to the rights and liberties of individuals - *Legislative Standards Act 1992 (LSA)*, section 4(2)(a)

Right to privacy

Clause 8 amends section 122 (Power of entry) of the *Animal Care and Protection Act 2001* to provide inspectors with the power to enter premises (other than a vehicle), without consent or having to first obtain a warrant, if an inspector has a reasonable suspicion an animal has been abandoned. This could impact on an occupant's privacy.

The impact is limited by the requirement for the inspector to be reasonably satisfied that the animal is abandoned and to attempt to make contact with the last known owner or occupier of the premises to seek entry.

The limited impact is justified to avert the need to allow an animal's welfare to deteriorate to the point where it would be at imminent risk of death or injury before the inspector could take reasonable actions to prevent the animal from suffering.

Clause 16, which inserts new section 215D (Use of body-worn camera by authorised officer or inspector) in the *Animal Care and Protection Act 2001*, enables the use of body-worn cameras by authorised officers and inspectors to record sounds and images when exercising powers under chapter 5, part 4 of the Act and chapter 6, part 2 of the Act respectively. This may impact on the right to privacy.

Similarly, clause 37 inserts new section 337A (Use of body-worn cameras) in the *Biosecurity Act 2014*, clause 71 inserts new section 20A (Use of body-worn cameras) in the *Chemical Usage (Agricultural and Veterinary) Control Act 1988*, clause 75 inserts new section 101A (Use of body-worn cameras) in the *Drugs Misuse Act 1986*, and clause 80 inserts new section 222A (Use of body-worn cameras) in the *Exhibited Animals Act 2015*.

The use of body worn cameras is becoming more common in agencies with enforcement or legislative compliance functions. Their use may reduce obstruction of officer's activities; assist them to gather evidence of offences; provide a record of verbal orders and directions; and assist in investigating complaints.

As a safeguard to the unlawful disclosure of information obtained by an inspector or authorised officer, the Bill inserts or amends the following existing sections of the relevant Acts to ensure the appropriate use of the information.

- Clause 13 inserts new section 215B (Confidentiality of information) of the *Animal Care and Protection Act 2001* (which replaces the former section 85 which only related animal welfare offence reports). It provides that a person who is or has been the chief executive, an inspector or another person, such as a public service employee, involved in administering the *Animal Care and Protection Act 2001*, must not use or disclose confidential information. The exceptions to the prohibition on use or disclosure are when it is in the performance of a function or exercise of a power under the Act, it is with the consent of the person to whom the information relates or it is otherwise required or permitted by law. It provides a maximum penalty of 50 penalty units for non-compliance.
- The *Biosecurity Act 2014* already contains section 493 (Confidentiality of information) which prohibits the disclosure of confidential information except for the stated purposes, with consent or otherwise required or permitted by law. Clause 38 amends the type of information to which section 493(3) applies, including to exclude any information that could identify an individual or is about a person's current financial position or financial background or would likely damage the commercial activities of a person to whom the information relates.
- Clause 72 inserts new section 35 into the *Chemical Usage (Agricultural and Veterinary) Control Act 1988* to prohibit the use or disclosure of information unless it is in the performance of a function or exercise of a power under the Act, with consent or otherwise required or permitted by law. It provides a maximum penalty of 50 penalty units for non-compliance.
- Clause 76 inserts new section 113 into the *Drugs Misuse Act 1986* to prohibit the use or disclosure of confidential information unless it is in the performance of a function or exercise of a power under the Act, with consent or otherwise required or permitted by law. It provides a maximum penalty for non-compliance of 50 penalty units.
- The *Exhibited Animals Act 2015* already contains section 256 which prohibits the disclosure of confidential information except for the purposes listed in section 256(3). The Bill amends the type of information to which section 256(3) applies, including to exclude any information that could identify an individual or is about a person's current financial position or financial background or would likely damage the commercial activities of a person to whom the information relates.

Recordings made by inspectors while exercising a power under the *Animal Care and Protection Act 2001* are records under the *Public Records Act 2002*. As a recording is a document of an agency, a person may apply for access to a recording under the *Right to Information Act 2009*. A person may also apply for access to a recording under the *Information Privacy Act 2009* to the extent a recording contains the individual's personal information. Recordings must be retained in accordance with the obligations under the *Public Records Act 2002* and the Information Privacy Principles in the *Information Privacy Act 2009*.

If recordings were to be relied on and used as evidence in a prosecution, they would generally need to be disclosed to a defendant.

Clause 16, also inserts new section 215D (Chief executive (transport) must disclose information) in the *Animal Care and Protection Act 2001*. It requires the chief executive (transport) to disclose vehicle registry information to an inspector upon request, where the information may be used to identify a person suspected of committing an animal welfare offence or the owner of a vehicle which has been used in the commission of an animal welfare offence. This may impact on the right to privacy.

A request for information can be made only if an inspector is reasonably satisfied that the information may be used in the investigation of an animal welfare offence and then released only if the chief executive (transport) reasonably considers the information may be used to identify the person or owner of the vehicle. These limits provide an appropriate balance between the vehicle owner's right to privacy and the need to thoroughly investigate animal welfare offences.

Also, the amendments are proposed to be supported by an administrative agreement between the relevant departments which will further prescribe the conditions of access to the information contained in the vehicle registry.

Clause 72 inserts new section 36 (Exchange of information with prescribed government entity) in the *Chemical Usage (Agricultural and Veterinary) Control Act 1988* which allows the chief executive to enter into an information-sharing arrangement with another State or Commonwealth government entity to share or exchange information. The new power is constrained as the information-sharing arrangement may only relate to information that helps the chief executive or an inspector perform functions under the Act, or the prescribed government entity, or a person employed or engaged by the entity, to perform functions under a law of the State, another State or the Commonwealth. For example, information provided under the Act may include laboratory test results which indicate an exceedance of a maximum residue limit in produce. This information may be provided to the relevant State agency where the produce originated so they can take appropriate action. The subsequent use of information exchanged, is also constrained as the information may be used by the chief executive or the prescribed government entity, only for the purpose for which it was given under the arrangement.

Freedom of movement and association

Clause 29 amends section 23 of the *Biosecurity Act 2014* to clarify that carrying out an activity includes entering, being present at or leaving a place where biosecurity matter or a carrier is present, which has the effect that a person who undertakes this activity may have a general biosecurity obligation which is broadly to minimise the biosecurity risks associated with it.

The general biosecurity obligation has the effect of regulating movement of a person entering, being present at or leaving a place. The obligation is limited to requiring persons to take all reasonable steps to minimise the biosecurity risks posed by their movements and is justified by the potentially very significant consequences on human health, social amenity, the economy and the environment if biosecurity risks are not managed appropriately.

Clause 31 inserts new part 3A (Biosecurity zone maps) in chapter 6 of the *Biosecurity Act 2014* which enables the chief executive to amend a biosecurity zone map to which biosecurity zone regulatory provisions apply for particular regulated biosecurity matter. This clause potentially offends persons' rights and liberties by restricting their activities or movement within, into or out of a biosecurity zone.

Although movement restrictions can be extended or reduced by amending a biosecurity zone map, the restrictions themselves would be imposed by regulation and would be subject to separate consideration of compatibility with the right to freedom of movement, especially following the commencement of the *Human Rights Act 2019*. Any restrictions would be limited

because they must be directed at managing, reducing or eradicating biosecurity matter, such as preventing the spread of pests and diseases. It is very unlikely that they would prevent a person's movement but they may regulate movement to ensure that a person does not carry biosecurity matter.

An impact is justified because the consequences of not managing regulated biosecurity matter appropriately can be very significant impacts on human health, social amenity, the economy and the environment.

Clause 49 inserts new Part 13 in Chapter 5 of the *Biosecurity Regulation 2016*. It requires that a person must discharge their general biosecurity obligation when entering, being present at or leaving a place where biosecurity matter or a carrier is present, by complying with a biosecurity management plan.

The provision has the effect of regulating movement of a person entering, being present at or leaving a place. The requirement to comply with the plan is justified because the entity making the plan is in a unique position to know the biosecurity risks that may be posed or exacerbated by the person's activities and how they can best be managed. There are potentially very significant consequences on human health, social amenity, the economy and the environment if biosecurity risks are not managed appropriately.

Clause 78 inserts new section 22A which requires that a person not cause or increase a relevant risk and must comply with reasonable instructions from someone responsible for an exhibited animal to enable them to manage a relevant risk. It confers power on a person responsible for an exhibited animal to potentially restrict a person's freedom of movement by giving instructions about their movements.

The potential impact is limited because the instructions that must be complied with must be 'reasonable' and can only be to allow the responsible person to comply with their obligation, which is broadly to minimise relevant (animal welfare, biosecurity and public safety) risks associated with exhibiting and keeping an exhibited animal.

The requirement to comply with instructions is justified because the responsible person is in a unique position to know the relevant risks that may be posed or exacerbated by the person's activities. Typically, other persons unfamiliar with a particular species may not be aware of the very serious risks to human safety, animal welfare and biosecurity posed by exhibited animals and how they can be managed.

Clause 79 inserts new ch 6, pt 3, div 3A (Power to give direction to move) in the *Exhibited Animals Act 2015*. The power to give a direction to move applies where an inspector reasonably believes a person is contravening new section 22A (Duty of other persons in relation to general exhibition and dealing obligation). New section 188B may, on its face, breach a person's right to peaceful assembly. This right in a public place is generally protected under the *Peaceful Assembly Act 1992*.

However, the limitation of a person's right to freedom to move and of assembly is appropriate where the person does not take reasonable care to ensure that their acts or omissions do not cause or increase a risk associated with exhibiting or dealing with an exhibited animal. Similarly, a failure to follow the instructions to enabling a person exhibiting an animal to

comply with that person's general exhibition and dealing obligation could also have very serious animal welfare, biosecurity and public safety consequences.

Clause 132 amends the offence for unlawful assembly in section 10A of the *Summary Offences Act 2005*. It provides that a gathering of three or more persons is unlawful at certain places if a person in the vicinity would believe on reasonable grounds, that there is risk to the health and safety of a person or food, or a risk to animal welfare or biosecurity or is likely to cause economic loss to a business carried out on the land. This impacts on the right to assembly.

The impact on the right to assembly is justified by the need to balance this right against the rights of persons who work and live on the land. It is also reasonable, necessary and proportionate to the objective of protecting the public interest in human health and safety, food safety, animal welfare, biosecurity and the rights of persons who operate businesses on the land. It is arguable that if there is a reasonable risk of economic loss or a risk to the safety of any person, food safety, animal welfare, or a biosecurity risk, then the assembly is not peaceful. Section 10A does not affect lawful industrial action because it is subject to the *Industrial Relations Act 2016*.

Clause 133 amends the offence for unlawfully entering or remaining on particular land in section 13 of the *Summary Offences Act 2005*. It extends the existing offence which prohibits unlawful entry to and remaining on farming land. This impacts on a person's freedom of movement.

The prohibition is limited to unlawful activities. It is justified by community expectations that persons should enjoy privacy in their use of land for agricultural and similar purposes and should be protected from the risks (including to animal welfare, biosecurity, food safety and human health and safety) posed by unlawful entry to their land. The amendment is further justified in the respect that it serves to promote the privacy rights of land owners who are the subject of an unlawful entry.

Recognition and equality before the law

Clause 29 amends section 23 of the *Biosecurity Act 2014* to clarify that carrying out an activity includes entering, being present at or leaving a place where biosecurity matter or a carrier is present, which has the effect that a person who undertakes this activity may have a general biosecurity obligation to minimise biosecurity risks associated with the activity.

Extending the general biosecurity obligation may adversely impact the pattern of protest activity recently pursued by certain groups who hold certain beliefs about animal rights, more than other groups. Indeed, this pattern of protest activity was the trigger for the clarification effected by clause 29. This could be seen to be incompatible with the general concept that people hold the same human rights by virtue of being human and not because of some particular characteristic or membership of a particular social group.

Similarly, clause 49 inserts new Part 13 in Chapter 5 of the *Biosecurity Regulation 2016* which has the effect that a person must discharge their general biosecurity obligation when entering, being present at or leaving certain places where biosecurity matter or a carrier is present, by complying with the measures in a biosecurity management plan.

However, the amendments to section 23 and insertion of provisions in new Part 13, Chapter 5 are not discriminatory and only seek to regulate behaviour to minimise biosecurity risks. The

general biosecurity obligation and the new requirement for compliance with a biosecurity management plan applies equally to all persons. The obligation and requirement also apply whether entry is lawful or unlawful. There are literally thousands of persons, who are overwhelmingly not animal activists, who are subject to the obligation and requirement. For example, these provisions apply to all workers entering an animal holding facility for which there is a biosecurity management plan.

Clause 78 inserts new section 22A in the *Exhibited Animals Act 2015* which requires that a person not cause or increase a relevant risk and must comply with reasonable instructions from a responsible person for an exhibited animal, in order for the responsible person to comply with their general exhibition and dealing obligation for an exhibited animal.

Although the actions of animal rights activists triggered the inclusion of this clause, the behaviour it seeks to regulate is not unique to those groups. It applies equally to any person who could cause or increase a relevant risk associated with dealing with an exhibited animal. It is immaterial whether a person doing the act or omitting to do the act is a protestor or present at a place for a completely different purpose. For example, it could apply to an intoxicated person in an exhibition arena being so disruptive of the animal exhibition that they risk a stampede of animals which could impact animal welfare and public safety. The beliefs of a person and their membership of a particular group is not relevant in determining whether they have breached this offence and this law applies equally to all persons.

Clause 132 amends the offence for unlawful assembly in section 10A of the *Summary Offences Act 2005*. It provides that a gathering of three or more persons is unlawful at certain places if a person in the vicinity would believe on reasonable grounds, that there is risk to the health and safety of a person or food or a risk to animal welfare or biosecurity. Clause 133 amends the offence for unlawfully entering or remaining on particular land in section 13 of the *Summary Offences Act 2005*.

Increasing the penalty for persons who unlawfully enter or remain on particular land and increasing the circumstances in which unlawful assemblies occur, may adversely affect certain groups, more than others, due to the beliefs and activities associated with particular social groups, such as certain animal activist groupings. This could be seen to be incompatible with the general concept that people hold the same human rights by virtue of being human and not because of some particular characteristic or membership of a particular social group.

Although the amendments to sections 10A and 13 have been prompted by the recent actions of animal rights activists, the behaviour these offences seek to regulate is not unique to those groups and the provisions target the behaviour not the beliefs or social grouping. For example, section 13 applies equally to any gathering on particular land if the conduct of the gathering is reasonably likely to pose a risk to the health and safety of a person or food, or a risk to animal welfare or biosecurity or is likely to cause economic loss. It could, for example, apply to a gathering of persons at a cattle saleyard who are in dispute with the owner of the facility and decide to disrupt an auction by worrying the cattle with noise and lights and causing them to injure themselves. Similarly, the beliefs of the person and their membership of a particular group is not relevant to determining whether a person unlawfully entered land used for certain purposes under section 10A.

The amendments to section 10A and 13 serve to protect the rights of persons who work and live in the areas regulated and are also in the broader public interest.

Freedom of expression

Clause 78 inserts new section 22A in the *Exhibited Animals Act 2015* which requires that a person not cause or increase a relevant risk and must comply with reasonable instructions from a responsible person for an exhibited animal, in order for the responsible person to comply with their general exhibition and dealing obligation for an exhibited animal.

This section requires a relevant person who may not otherwise have a duty towards an exhibited animal to act in a way that would not cause or increase a relevant risk associated with the exhibiting of that animal and to comply with instructions from a responsible person to achieve that aim. This amendment may be seen to regulate persons' freedom of expression (acts or omissions) where an exhibited animal is being exhibited.

The restriction is limited to requiring them to take reasonable care so their expressions (acts or omissions) do not increase a relevant risk associated with the exhibition of the animal and do not interfere with the person responsible for the animal managing those risks. It is justified by the potential consequences of creating or increasing an animal welfare, biosecurity or public safety risk.

Clause 132 amends the offence for unlawful assembly in section 10A of the *Summary Offences Act 2005*. It provides that a gathering of three or more persons is unlawful at certain places if there is a belief on reasonable grounds, there is a risk to the safety of any person or food, or a risk to animal welfare or biosecurity or is likely to cause economic loss. This potentially limits the freedom of expression at certain places in a medium chosen by the person.

The impact on freedom of expression is justified because of the potential adverse effects resulting from their expression on human health and safety, food safety, animal welfare and biosecurity or for a business carried on the land. Section 10A does not affect lawful industrial action because it is subject to the *Industrial Relations Act 2016*.

Proportion and relevance of the penalty to the offence

Clause 21, which amends s43ZF (Supplier of dog must give particular details) of the *Animal Management (Cats and Dogs) Act 2008*, expands the scope of the existing offence. It inserts a further requirement that a person supplying a dog must also give the person to whom the dog or cat is supplied, a transfer of ownership form that is completed and signed by the supplier of the dog. Where this is not complied with, the existing penalty of a maximum of 50 penalty units applies. At issue is proportion and relevance of the penalty to the offence.

Microchip registries maintain databases of owners of microchipped animals, particularly dogs, and assist with rehoming lost animals with their owners. Microchip registries have advised that in half of all cases where dogs are supplied, transfer forms are not provided by the supplier to the new owner. This creates problems for new owners who are unable, or have difficulty, fulfilling their statutory obligations under the legislation to ensure their dog's microchip information is correct and kept up to date. As a result, dogs are unable to be returned to their rightful owner when they become lost. Among other things, this can lead to civil disputes over dog ownership.

Supplying a transfer form with the supplier's details and supply number is a minimal additional impost compared to supplying notice of these details as currently required. The current

maximum penalty for the offence of not providing the person to whom a dog or cat is supplied a notice stating the name of the supplier and the relevant supply number is 50 penalty units. As microchip transfer forms contain the same details as the notice, it is appropriate that the same maximum penalty should apply for non-compliance with providing the transfer form as the notice.

Clause 29 amends section 23 (What is a general biosecurity obligation) of the *Biosecurity Act 2014* to clarify that carrying out an activity includes entering, being present at or leaving a place where biosecurity matter or a carrier is present. This amendment means that a person who enters, is present at, or leaves a place where biosecurity matter or a carrier is present, has a general biosecurity obligation to take all reasonable and practical measures to prevent or minimise the biosecurity risk. This in turn makes a person subject to a general biosecurity offence where they fail to discharge their general biosecurity obligation, which carries a maximum penalty of between 500 penalty units and 3,000 penalty units or 3 year's imprisonment for an aggravated offence.

This high penalty is justified given the extraordinary risks that may be posed by entering, being present at or leaving a place where biosecurity matter or a carrier is present. For example, people can spread serious animal diseases on their skin, footwear, vehicles and equipment if strict biosecurity measures are not maintained. Zoonotic diseases (such as swine flu that can infect both humans and animals) can spread by contact between humans and animals.

Animal disease transmission has significant economic, environmental and regional community impacts and could devastate Queensland's \$6 billion livestock industry.

Clause 69 replaces sections 15 and 15A of the *Chemical Usage (Agricultural and Veterinary) Control Act 1988* with a new section 15 (Duty to report chemical residues in or on relevant thing). The new provision includes an offence with a maximum of 40 penalty units, for non-compliance with the reporting obligation. This penalty is equal to the maximum penalty for the offences under both sections being replaced.

The detailed reporting obligations are necessary to ensure that detections of chemical residues are reported in an efficient and timely manner to facilitate investigations and avoid residues from entering the food chain. The penalty for non-compliance is justified by the potential impact on human health and the risk that delayed response to high residue levels in particular trade species animals or products, could also severely disrupt agricultural produce markets and trade with significant impacts for agricultural industries and regional economies.

Clause 13 inserts new section 215B (Confidentiality of information) of the *Animal Care and Protection Act 2001*, clause 72 inserts new section 35 into the *Chemical Usage (Agricultural and Veterinary) Control Act 1988* and clause 76 inserts new section 113 into the *Drugs Misuse Act 1986*. These new sections prohibit the use or disclosure of confidential information unless in the performance of a function or exercise of a power under the Act, with consent or otherwise required or permitted by law. The maximum penalty for non-compliance in each case of 50 penalty units which reflects the importance of respecting and maintaining persons' rights to have their confidential information handled appropriately.

Clause 78 inserts new section 22A of the *Exhibited Animals Act 2015* which requires that a person not cause or increase a relevant risk and must comply with reasonable instructions from someone responsible for an exhibited animal to enable them to manage a relevant (animal

welfare, biosecurity or public safety) risk. Non-compliance has a maximum penalty of 100 penalty units. This penalty is justified because of the potential for significant animal welfare, biosecurity and public safety consequences that can result from non-compliance.

Clause 79 inserts a new section 188C (Failure to comply with direction) in the *Exhibited Animals Act 2015* which creates a new offence, with a maximum penalty of 100 penalty units, for failing, without a reasonable excuse, to comply with an inspector's direction under new section 188B to either, leave the land or move away from where the contravention of section 22A is occurring. The penalty is justified because of the potential for significant animal welfare, biosecurity and public safety consequences where there is non-compliance with section 22A.

Clause 132 amends s10A (Unlawful assembly) of the *Summary Offences Act 2005* with the effect that the existing maximum penalty of one year's imprisonment also applies to a gathering of three or more persons on particular land specified in section 13(1) if a person in the vicinity would believe on reasonable grounds that their conduct poses a risk to the health and safety of a person or food, or a risk to animal welfare or biosecurity.

The extension of when 'unlawful assembly' occurs serves to protect the rights of persons who work and live in the areas regulated. It also protects the public from the adverse effects of risks to biosecurity, human safety and to the safety of food produced for human or animal consumption.

While a custodial sentence could be imposed, the courts will retain the capacity to impose alternative penalties including a monetary penalty or a community service order where considered appropriate under the *Penalties and Sentences Act 1992*.

Clause 133 increases the maximum penalties associated with unlawfully entering or remaining on land used for certain purposes under section 13 of the *Summary Offences Act 2005*. The increased penalty of 20 penalty units or 1 years' imprisonment reflects the gravity of the fear and intimidation that may be experienced where persons unlawfully enter farming and other specified land, especially in large groups in regional or remote locations.

While a custodial sentence could be imposed, the courts will retain the capacity to impose alternative penalties including a monetary penalty or a community service order where considered appropriate under the *Penalties and Sentences Act 1992*.

Compensation upon loss of office

Clause 107 inserts new pt 11, div 5 (Transitional provision for Agriculture and Other Legislation Amendment Bill 2019) into the *Food Production (Safety) Act 2000* which provides that upon commencement of the Bill, the Food Safety Advisory Committee is dissolved and the provision expressly excludes compensation being paid to a member of the Food Safety Advisory Committee.

Although on its face this provision may offend the fundamental legislative principle, there are no currently appointed members nor have there ever been any members appointed to the Committee so there is no actual or perceived loss that will be suffered by the non-payment of compensation.

Legislation should confer power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer — LSA, section 4(3)(e)

Clause 8 amends s122 (Power of entry) of the *Animal Care and Protection Act 2001* to provide inspectors with the power to enter premises (other than a vehicle) without having to obtain a warrant when an inspector reasonably suspects an animal has been abandoned. This is a potential breach of the principle that legislation should confer power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer.

The expanded power is narrow in terms of when it can be utilised. It is justified because otherwise an animal's welfare would have to deteriorate to the point where it would be at imminent risk of death or injury before an inspector could enter premises without a warrant to take reasonable actions to prevent the animal from suffering. In view of the large numbers of abandonment cases reported each year to the RSPCA Qld, it is not practical to obtain warrants for entry in all cases.

Safeguards to the exercise of this power would apply in the inquiry process prior to entry, given that the inspector must firstly be reasonably satisfied the animal is abandoned. Reasonable attempts must be made by the inspector, within a reasonable period of time, to make contact with the last known owner or occupier of the premises to seek entry. Also, guidelines will be developed for the guidance of inspectors to ensure the expanded power of entry will be exercised appropriately and with discretion.

Legislation should provide for the compulsory acquisition of property only with fair compensation—LSA, section 4(3)(i).

Clause 8 amends s122 (Power of entry) of the *Animal Care and Protection Act 2001* and provides inspectors with the power to enter premises (other than a vehicle) without having to first obtain a warrant when an inspector reasonably suspects an animal has been abandoned. Once the property is entered, an inspector may then seize the animal. This is a potential breach of the principle that legislation should provide for the compulsory acquisition of property only with fair compensation.

The potential breach of the fundamental legislative principle is mitigated by the fact that although a seizure of an animal in this circumstance constitutes a compulsory acquisition of property, the owner has abandoned the animal.

Clause 10 amends s152 (Return of seized animal) of the *Animal Care and Protection Act 2001*, and inserts a further circumstance when an inspector is not required to return an animal to its owner within the 28 day period after it was seized. This could adversely impact on an owner's proprietary rights in relation to the animal.

However, the amendment provides that an inspector is not required to return the seized animal within 28 days only if the inspector has given the chief executive information about a matter in section 154(2)(a), (b) or (c), to decide whether to forfeit the animal but the chief executive has not made a decision. The criteria for the chief executive's decision to forfeit the animal are, that after making reasonable efforts, the animal can't be returned to its owner, or after making reasonable enquiries the animal's owner or person in charge cannot be found, or it is reasonably

necessary to keep the animal to prevent it from being used to commit or become the subject of, an animal welfare offence. It is only in relation to this last grounds that there is a potential impact on proprietary rights.

The amendments give an inspector up to 28 days to investigate an alleged offence and submit information to the chief executive upon which the chief executive decides whether to forfeit the animal or return it. This increased investigation time is justified on the basis that some matters are more complex and require greater time to gather sufficient evidence to fully inform the chief executive's decision-making.

The impact on proprietary rights is also of limited duration - clause 11 provides that the chief executive must decide whether to forfeit an animal within 14 days after receiving information from an inspector or police officer. Where the chief executive fails to make a decision within the 14 days, clause 10 also inserts a provision which requires the inspector to promptly return the animal to its owner.

Clause 114 amends section 72 (Wild stock) of the *Forestry Act 1959* to change the procedures by which the chief executive must advertise an intention to muster stock unlawfully in a State forest, timber reserve, forest entitlement area, or forest consent area. These amendments may be considered to breach the fundamental legislative principle to the extent that they may reduce the potential and opportunity for owners to claim their stock.

The chief executive is no longer required to insert two notices of the intended muster in a newspaper circulating in the district, nor provide notices to the nearest forestry office, every Magistrates Court in the district and every inspector of stock within the district. Instead the amendments require the chief executive to give each landholder adjoining the area where the stock are, a notice advising of the muster and instead of providing this notice 28 days prior, it only needs to be provided to relevant landholders and persons believed to be the owner five days prior to the muster. The notice must state the owner may claim the stock within 14 days after the notice is given.

The potential breach is limited because in order to give a notice of intended muster, the chief executive must reasonably believe the stock are unlawfully in and detrimental to the area in the first place. The reduced notice and claim period is justified because the longer stock remain in these areas, the more potential damage they may cause to State forestry assets through land degradation, grazing of flora and seedlings and damage to fences. Stock present in these areas also pose safety concerns to persons and vehicles where they traverse roads and trails. However, given the amended notification procedures are targeted towards relevant landholders and persons likely to be the owners of the stock, the amendments seek to achieve a greater likelihood of having stock claimed by their owners more quickly and with less overall detrimental impact.

Clause 115 amends section 82A (Seizure and forfeiture of vehicles) of the *Forestry Act 1956* and Clause 116 inserts new section 82N (Seizure of vehicles by plantation officer) and section 82O (Chief executive may order forfeiture of particular vehicles to plantation licensee) in the *Forestry Act 1956*.

These sections provide forest officers and plantation officers with the power to seize, remove and detain a vehicle from an area for which the plantation licensee is appointed. New section 82O provides the power for the chief executive to forfeit a vehicle which has been seized under

new section 82N to the plantation licensee, if the owner cannot be found after reasonable enquiries or it is not reasonable to make enquiries about the owner given the vehicle's value.

These amendments are justified on the basis that they seek to reduce the fire, safety, public health and environmental risks posed by abandoned vehicles which increase the longer abandoned vehicles remain in State forest. Providing plantation officers with the power to seize and dispose of abandoned vehicles as employees of the plantation licensee, can be justified given the majority of abandoned vehicles likely to be seized would have little to no value and in most instances they are wrecks. If the owner of an abandoned vehicle is found, in circumstances where the vehicle is burnt-out or written-off, then it would be unreasonable to insist the vehicle be returned to its owner unless the owner wished to claim it. In situations where an abandoned vehicle has little to no value, it would be impractical for the legislation to provide a strict application of the principle of fair compensation given its value and the likely expenses to be incurred in removing it. However, if an abandoned vehicle were to have a financial value, in the majority of cases the seizure and disposal would be a police/insurance matter and the chief executive would not have any involvement in the disposal of the vehicle. Safeguards to the exercise of this power include requiring plantation officers to first establish a reasonable belief the vehicle is abandoned. This will ordinarily require enquiries to be conducted to determine if the owner of the vehicle can be located. Where a proprietary interest in the vehicle is established, the amendments provide that the plantation licensee must return the vehicle to the owner upon providing evidence of ownership.

A further safeguard to the exercise of this power will be provided through the development of guidelines for use by departmental officers and the plantation licensee to ensure that the powers are exercised appropriately. The guidelines would be included in the plantation licensee's delegation deed and it will become a condition of the delegation deed that the licensee must act in accordance with the guidelines when exercising delegated powers. Failure to act in accordance with the condition of the licence by not following the guidelines may invoke consequences and or penalties under the Act.

Legislation should not adversely affect rights and liberties, or impose obligations, retrospectively – LSA, section 4(3)(g)

Clause 125 inserts new chapter 9 (Transitional and validating provisions for Agriculture and Other Legislation Amendment Bill 2019) into the *Racing Act 2002*. The potential breach is that these provisions retrospectively validate the actions of the Queensland Racing Integrity Commission including the actions and penalties imposed by stewards.

The retrospective application is justified to clarify the responsibilities of the Commission in relation to the Racing Rules. The Racing Rules have been administered in accordance with the *Racing (Transitional Regulation) 2016* since its expiry on 1 July 2017 and there will not be any additional obligations imposed on the public by validating the Commission's actions retrospectively. Further, during the period since expiration of this Regulation, there has not been any established invalidities relating to the administration of the Racing Rules.

A Bill should allow the delegation of legislative power only in appropriate cases and to appropriate persons - LSA, section 4(4)(a)

Clause 23 amends section 81 (Obligation to comply with permit conditions under sch 1), clause 24 amends section 97 (Declared dangerous dogs) and clause 25 amends section 98 (Declared menacing dogs) of the *Animal Management (Cats and Dogs) Act 2008*.

Each of these clauses provide that a person must comply with permit conditions in relevant sections of the Act as well as any relevant conditions prescribed by regulation. In each case, a person is subject to a maximum penalty of 75 penalty units where they fail to comply.

These clauses potentially involve an inappropriate delegation of power because they enable regulations to prescribe additional conditions which enliven an offence under the Act if there is non-compliance. It is desirable for offences, particularly those with a maximum penalty of more than 20 penalty units, to be clearly defined and contained in an Act. However, the delegation is appropriate to provide sufficient flexibility to impose additional conditions relatively quickly when a need is identified to ensure these categories of dogs are managed appropriately given the fear and risks they may pose to human safety.

Legislation should sufficiently subject the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly – LSA, section 4(4)(b)

Clause 31 inserts new part 3A (Biosecurity zone maps) in chapter 6 of the *Biosecurity Act 2014* which enables the chief executive to amend a biosecurity zone map to which biosecurity zone regulatory provisions apply for particular regulated biosecurity matter.

The proposed amendments are justified because it is not practical nor timely to constantly amend the *Biosecurity Regulation 2016* as the distribution, presence or absence of regulated biosecurity matter changes. Delays in making appropriate changes to accurately show the distribution of regulated matter to which biosecurity zone regulatory provisions apply could significantly exacerbate the serious risks that pests and diseases may pose to agriculture, human health, social amenity, the economy and the environment.

Safeguards to the indiscriminate amendment of biosecurity zone maps through the exercise of this power are provided in new section 130B which allows the chief executive to amend a biosecurity zone map only if the chief executive becomes aware the regulated biosecurity matter is present or absent in a particular area or is otherwise satisfied there has been a change in the distribution of the regulated biosecurity matter.

To ensure that persons likely to be affected by the biosecurity zone changes are fully informed of the biosecurity zone regulatory provisions which will apply to them and their activities, the Bill inserts new section 130C (Requirements in relation to identification of particular biosecurity zones). New section 130C ensures the chief executive must, as soon as practicable after the biosecurity zone map is published on the department's website, take all reasonable steps to ensure that persons likely to be directly affected by the change of area are made aware of the amended map.

Subordinate legislation should allow the subdelegation of a power delegated by an Act only in appropriate cases and to appropriate persons and if authorised by an Act – LSA section 4(5)(e)

Clause 49 inserts new section 94G of the *Biosecurity Regulation 2016* which provides that a registered biosecurity entity or a holder of an exhibited animal authority may make a biosecurity management plan stating reasonable measures to prevent, control or stop the spread of biosecurity matter from a designated place or a place where an exhibited animal is kept under the authority, respectively.

These provisions may be regarded as a subdelegation of legislative power because the biosecurity plans are made by registered biosecurity entities or exhibited animal authority holders and are used to determine if a person has committed an offence under new section 94H.

These provisions are justified because the person making the biosecurity management plan has unique knowledge about what activities occur at the place including which activities might pose a risk and what would be reasonable and practical measures to prevent, control or stop the spread of biosecurity matter into, at or from the place. It is not mandatory that a biosecurity management plan be made, but where the person develops a plan it will also assist others at the place to comply with the general biosecurity obligation which applies to everyone.

Further, the offence will only apply if the registered biosecurity entity or holder of an exhibited animal authority making a biosecurity management plan alerts the public that the place is subject to a biosecurity management plan and that it is an offence not to comply with the plan without a reasonable excuse. To enable a person to comply with the plan, the registered biosecurity entity or holder of an exhibited animal authority must keep the biosecurity management plan as a separate document and make it available for inspection on request during ordinary business hours.

Consultation

A stakeholder group, named the Biosecurity Legislation Reference Group (BLRG), was established for the statutory review of the *Biosecurity Act 2014* and was consulted on possible amendments to that Act to address the biosecurity risk posed by unauthorised access and reduce the information contained in the biosecurity register that is published so that it cannot be so easily harvested to create a directory of properties which can be targeted by protestors. The BLRG recommended amendments to that Act that are consistent with those included in the Bill.

The Animal Industry Security Taskforce (AIST), comprising DAF and QPS and animal industry leaders, was formed in early April 2019 to consider animal activism and farm trespass issues. AIST is generally supportive of legislative change to address animal activism but was not consulted on the specific amendments proposed.

RSPCA was consulted on changes to the ACP Act about seized animals and amendments to address the confinement of animals in vehicles. RSPCA supports the amendments to the ACP Act about seized animals, and amendments to address the confinement of animals in vehicles.

The Animal Welfare Advisory Board considered the issue of dogs being left unattended in vehicles as part of the Companion Animal Welfare Review, and advised that the current powers

of inspectors is sufficient to deal with people leaving dogs in cars and the inclusion of a separate offence was not necessary.

HQPlantations Pty Ltd, the plantation licensee under the *Forestry Act 1959*, was consulted. HQPlantations Pty Ltd, supports the proposed amendments relating to the plantation licence and exercise of powers by plantation officers.

The Safemeat Partnership which ensures hygiene and safety standards of red meat and livestock products includes the Goat Industry Council of Australia. The Safemeat Partnership supports the proposed amendments relating to goats.

Key stakeholders were consulted about a distinctive collar for dangerous dogs during a review of the *Animal Management (Cats and Dogs) Regulation 2009* and support it becoming mandatory as in some other jurisdictions

In view of the minor, non-controversial nature of the other proposed amendments in the Bill, external consultation on the other amendments was not undertaken.

Consistency with legislation of other jurisdictions

In July 2019, amendments were made to the *Biosecurity Regulation 2017* (NSW) that require a person to discharge their biosecurity duty under *Biosecurity Act 2015* (NSW) by complying with a biosecurity management plan. The biosecurity duty under that Act is very similar to the general biosecurity obligation under the *Biosecurity Act 2014* (Qld) and the amendment made to the *Biosecurity Regulation 2017* (NSW) is similar to the amendment to the *Biosecurity Regulation 2016* (Qld) made by clause 49.

On 4 July 2019, the Federal Attorney-General, the Honourable Christian Porter MP, introduced the Criminal Code Amendment (Agricultural Protection) Bill 2019 (the Federal Bill) to introduce two new offences for using a carriage service to incite trespass or property offences on agricultural land. The maximum penalties are one year's imprisonment or five years' imprisonment, respectively.

It should be noted that the Federal Bill does not establish any offences for trespass or property offences but only for ***using a carriage service to incite*** trespass or property offences. A person who counsels or procures any other person to commit trespass or property offences in Queensland may currently be charged with the relevant offence under section 7 of the Criminal Code (Qld) which deems him or her to be a party to the offence. However, this may not extend to all the circumstances addressed by the proposed offences in the Federal Bill.

Notes on provisions

Part 1 Preliminary

Clause 1 Short Title

Clause 1 states that this Act may be cited as the *Agriculture and Other Legislation Amendment Act 2019*.

Clause 2 Commencement

Clause 2 provides that part 2, division 3 and part 3, division 3 commence on 1 July 2020 and part 10, division 3 commences on a day to be fixed by proclamation.

Part 2 Amendment of Animal Care and Protection Act 2001

Division 1 Preliminary

Clause 3 Act amended

Clause 3 provides that this part amends the *Animal Care and Protection Act 2001*.

Division 2 Amendments commencing on assent

Clause 4 Amendment of s 17 (Breach of duty of care prohibited)

Clause 4 amends section 17 by including the words “including any confinement or transportation of the animal” to make clear that handling of an animal, which a person in charge of an animal must ensure is appropriate, includes confining or transporting the animal in a vehicle. The term “confine” is defined in part, in the Schedule (Dictionary) of the Act, to include caging or keeping it in captivity, pinioning it or subjecting it to a device to hinder or prevent its free movement or tethering it. The amendment clarifies that inappropriate confinement or transport of an animal, for example in or on a vehicle, may be a breach of a person’s duty of care to the animal.

Clause 5 Amendment of s 18 (Animal cruelty prohibited)

Clause 5 amends section 18(2)(f)(iii) by including an example to clarify that confining an animal in or on a vehicle in a way that causes the animal heat stress or other pain, is an instance of confining or transporting the animal in a way that is inappropriate for the animal’s welfare and hence may be an animal cruelty offence. “Pain” is defined in the Act to include distress, and mental or physical suffering.

Clause 6 Amendment of s 19 (Unreasonable abandonment or release)

Clause 6 omits the definition of “abandon” in subsection 19(3) due to its relocation to the schedule (Dictionary) as the term is used elsewhere other than in section 19.

Clause 7 Omission of s 85 (Confidentiality of animal welfare offence reports)

Clause 7 omits section 85 as it becomes redundant when the confidentiality of animal welfare reports is addressed in the new section 215B (Confidentiality of information) which has a broader scope.

Clause 8 Amendment of s 122 (Power of entry)

Clause 8 amends section 122 to add an inspector reasonably suspecting an animal is abandoned at the place, as a reason for an inspector entering and staying at a place, other than a vehicle.

Clause 9 Amendment of s 125 (Procedure for other entries without warrant)

Clause 9 amends section 125, in relation to the insertion of the additional reason for entering a place by clause 8. It provides that if the inspector intends to enter because of a reasonable suspicion an animal is abandoned, the inspector may enter and stay at the place if, after making reasonable enquiries, the inspector cannot locate the owner or occupier of the place to seek their consent to enter. The inquiries must be made over at least two days to locate the owner or occupier unless it is unreasonable to make inquiries.

Clause 10 Amendment of s 152 (Return of seized animal)

Clause 10 amends section 152(2) to insert a further exception to the requirement to return a seized animal to its owner, that being where the inspector has provided the chief executive with information about grounds to forfeit the animal but the chief executive has not made a decision under s154 to forfeit. The clause also inserts a new subsection 2A to provide that the inspector must promptly return the animal to its owner if the chief executive either does not make a decision to forfeit the animal within 14 days or decides the animal should not be forfeited. The remainder of the clause makes changes as a consequence of these amendments.

Clause 11 Amendment of s 154 (Power to forfeit)

Clause 11 amends section 154 to insert new subsection (5) which provides that the chief executive must decide whether to forfeit an animal or thing within 14 days of having received information from an inspector or police officer under section 154(2)(a), (b) or (c).

Clause 12 Amendment of s 189 (Recovery of seizure, compliance or destruction costs)

Clause 12 amends section 189 to reflect the changed section reference as a consequence of the amendments in clause 10.

Clause 13 Insertion of new s 214B

Clause 13 inserts new section 215B (Confidentiality of information) which provides safeguards to the use or disclosure of confidential information obtained under the Act including by the use of body-worn cameras. It provides that a person who is currently or has been the chief executive, an inspector or another person involved in administering the Act (such as a public service employee), who obtains confidential information about another person in administering or performing a function or exercising a power under the Act, must not use or disclose the information. It provides a maximum penalty for non-compliance of 50 penalty units. The only

exceptions to this are where the use or disclosure is in the performance or exercise of a power under the Act, or with the consent of the person to whom the information relates or is required or permitted by law. The clause defines confidential information for the provision as any information that could identify an individual or is about a person's current financial position or background or would likely damage the commercial activities of a person to whom the information relates.

Clause 14 Amendment of s 215B (Sharing of information by authorised officer or inspector)

Clause 14 amends section 215B(1) to reflect the omission of section 85 (refer clause 7) and change the section reference to the expanded confidentiality of information provision in new section 215B inserted by clause 13.

Clause 15 Amendment of s 215C (Interaction with other laws)

Clause 15 amends the heading of section 215C to clarify that it is the interaction of sections 215A and 215B with other laws about the giving of information.

Clause 16 Insertion of new ss 215D and 215E

Clause 16 inserts new sections 215D and 215E.

New section 215D (Chief executive (transport) must disclose information) provides that the chief executive (transport) must disclose vehicle registry information to an inspector upon request. It also contains the following threshold consideration to safeguard indiscriminate access to the information. The information may only be requested if the inspector is reasonably satisfied the information may be used in an animal welfare offence investigation to identify the owner of a vehicle which was used in the offence, or a person the inspector reasonably suspects committed the offence. Disclosure of the requested information is only required if the chief executive (transport) reasonably considers the information may be used to identify either the person or the vehicle's owner.

New section 215E (Use of body-worn camera by authorised officer or inspector) enables the lawful the use of this technology to record sounds and images by authorised officers or inspectors whilst exercising powers under Chapter 5, part 4 and by inspectors under Chapter 6, part 2 including when entering places (other than vehicles) and exercising powers after entry for investigation and enforcement purposes.

Clause 17 Amendment of schedule (Dictionary)

Clause 17 amends the schedule (Dictionary) to insert a definition of the term "abandon" in regards to an animal, which has application to more than one provision. The definition extends the normal meaning of 'abandon' to include leaving an animal for an unreasonable period. There is no definition of "unreasonable period" as this would vary depending upon the circumstances.

Division 3 Amendment commencing on 1 July 2020

Clause 18 Amendment of s 92 (Use for certain scientific purposes unlawful)

Clause 18 amends section 92 with the effect of omitting a prohibition on the use of an animal for a scientific purpose involving a cosmetic product or an ingredient of a cosmetic produce, from 1 July 2020. This is because the Scientific Use Code is proposed to prohibit such testing. The effect of the amendments is to retain a prohibition on the use of an animal for scientific purposes involving a sunscreen product or an ingredient of a sunscreen product, unless the chief executive gives written approval.

Part 3 Amendment of Animal Management (Cats and Dogs) Act 2008

Division 1 Preliminary

Clause 19 Act amended

Clause 19 provides that this part amends the *Animal Management (Cats and Dogs) Act 2008*.

Division 2 Amendments commencing on assent

Clause 20 Amendment of ch 2B, pt 4 hdg (Requirement to give particular details)

Clause 20 amends the heading of chapter 2B, part 4 to reflect the expanded scope of the chapter which includes the requirement to provide a change of ownership form.

Clause 21 Amendment of s 43ZF (Supplier of dog must give particular details)

Clause 21 amends section 43ZF to include a requirement for persons supplying dogs to also give persons being supplied a dog, a change of ownership form for a Prescribed Permanent Identification Device (PPID). Non-compliance with this additional requirement is also subject to the maximum penalty offence of 50 penalty units. Change of ownership forms are used by PPID (microchip) Registries to record the change in microchip details from the supplier of the dog to the new owner. The clause inserts a definition of “change of ownership form” specifically to account for forms with different titles. This reflects that the change of ownership form is not a form controlled or prescribed by the chief executive and each microchip registry may have a different name for the form which serves this purpose. This provision is designed to assist persons who are supplied with dogs to comply with their legislative obligation to ensure that the microchip details for their dog are kept up to date which will assist with reunification of lost dogs and resolve ownership disputes.

Clause 22 Insertion of new s 209A

Clause 22 inserts new section 209A to provide that the chief executive under the Act may give a notice or other document to a person using an electronic address, such as an email address or mobile phone number but only if the person has provided the address for the purpose of communication and has not asked the chief executive to discontinue communication by this means. Expanding the form of communications that the chief executive can use will facilitate

faster, more efficient and cost effective delivery of various types of information and documents, such as licences, renewal notices and show cause notices.

Division 3 Amendments commencing on 1 July 2020

Clause 23 Amendment of s 81 (Obligation to comply with permit conditions under sch 1)

Clause 23 amends section 81 to oblige a permit holder or responsible person for a restricted dog to comply with conditions prescribed by regulation, in addition to conditions in schedule 1. Conditions for restricted dogs are contained in both schedule 1 of the Act and section 80(2) also allows them to be prescribed by regulation. However the Act currently extends the offence in section 81 only to conditions stated in schedule 1 of the Act. Clause 21 rectifies this oversight by extending the obligation for compliance to conditions in regulations.

Clause 24 Amendment of s 97 (Declared dangerous dogs)

Clause 24 amends section 97 to oblige a relevant person for a declared dangerous dog to comply with conditions prescribed by regulation, in addition to conditions in schedule 1, sections 2 to 6 and 8 of the Act. Conditions for declared dangerous dogs are contained in both schedule 1 of the Act and section 96(2) also allows them to be prescribed by regulation. However the Act currently extends the offence in section 97 only to conditions stated in schedule 1 of the Act. Clause 22 rectifies this oversight by extending the obligation for compliance to conditions in regulations.

Clause 25 Amendment of s 98 (Declared menacing dogs)

Clause 25 amends section 98 to oblige a relevant person for a declared menacing dog to comply with conditions prescribed by regulation and in schedule 1, section 2A which is inserted by clause 27, in addition to conditions in schedule 1, sections 2, 3(1)(b) and (2), 4 to 6 and 8, of the Act. Conditions for declared menacing dogs are contained in both schedule 1 of the Act and section 96(2) also allows them to be prescribed by regulation. However the Act currently extends the offence in section 98 only to conditions stated in schedule 1 of the Act. Clause 23 rectifies this oversight by extending the obligation for compliance to conditions in regulations. It also extends the obligation to the new conditions which clause 23 prescribes in the Act.

Clause 26 Amendment of s 210 (Regulation-making power)

Clause 26 amends section 210 to make clear that a regulation may be made about permit conditions and conditions applying to declared dangerous and menacing dogs.

Clause 27 Amendment of sch 1 (Permit conditions and conditions applying to declared dangerous and menacing dogs)

Clause 27 amends schedule 1 to insert a condition as new section 2A requiring a relevant dog to wear at all times, a distinctive collar of dimensions and other requirements as prescribed by regulation.

Part 4 Amendment of Biosecurity Act 2014

Clause 28 Act amended

Clause 28 provides that this part amends the *Biosecurity Act 2014*.

Clause 29 Amendment of s 23 (What is a general biosecurity obligation)

Clause 29 amends section 23 to clarify that a person carrying out the activity of entering, being present at or leaving a place where biosecurity matter or a carrier is present has a general biosecurity obligation. This means that are liable under the offence provision in section 24 if they do not discharge that obligation which is broadly to minimise any biosecurity risks associated with their activities. Clarification of the general biosecurity obligation will also enable a biosecurity officer to give a biosecurity order to a person who enters, is present at or leaves a place if an inspector believes the person may not be discharging that obligation. For example, the order could require a person to stop certain activities which are exacerbating biosecurity risks or to take certain action in order to minimise the biosecurity risks associated with their activities.

Clause 30 Amendment of s 46A (Prohibitions on feeding or supplying prohibited feed for pigs and poultry)

Clause 30 amends section 46A to insert the words “or pest control” in subsection (6). Section 46A provides that it is an offence to feed a pig with prohibited feed for pigs and poultry and a person must take reasonable steps to ensure a pig does not feed on prohibited feed for pigs and poultry and a person must not supply prohibited feed for pigs and poultry to another person to feed to pigs. These prohibitions are subject to some exceptions that allow for disease control. The amendment will expand the exemptions to allow for pest control. For example, they will allow the use of poison baits containing prohibited feed for pigs and poultry to be fed to pigs for the purpose of pest control.

Clause 31 Insertion of new ch 6, pt 3A

Clause 31 inserts a new part 3A (Biosecurity zone maps) comprising sections 130A to 130C. The intent of the new part is to enable the chief executive to approve the amendment of a biosecurity zone map if a regulation refers to it as being “as in force from time to time”. The map may be amended on an as needs basis if the distribution of a pest or disease changes or if information becomes available to change knowledge of the pest’s distribution. Biosecurity zone maps must be publicly available on the department’s website and the chief executive must inform affected stakeholders of changes to the biosecurity zones.

New section 130A (Meaning of *biosecurity zone map*) provides a definition of the term based on what was formerly in section 45 of the *Biosecurity Regulation 2016*. The relocation is needed because new section 130B and 130C of the Act provide for matters about biosecurity zone maps.

New section 130B allows the chief executive to amend the biosecurity zone map if the chief executive becomes aware that regulated biosecurity matter to which the biosecurity zone regulatory provisions relate, is present or absent in an area or if the chief executive is satisfied in some other way that there has been a change in the distribution of regulated biosecurity

matter. This power only applies if the biosecurity map is identified in the regulation as a map ‘as in force from time to time’.

New section 130C(1) provides the requirements for the identification of a particular biosecurity zone map which has been amended under section 130B and published on the department’s website. New section 130C(2) obliges the chief executive to ensure the new biosecurity zone map states the zone to which it relates (e.g. Fire Ant Biosecurity Zone Map) and the time and date the new map was published on the department’s website. New section 130C(3) obliges the chief executive, as soon as practicable after the new map is published on the website, to take all reasonable steps to ensure that persons likely to be directly affected by the change of the biosecurity zone area are made aware of the making of the map including by some stated means.

Clause 32 Amendment of s 172 (Publication of information held in biosecurity register)

Clause 32 amends section 172 to omit “address” of a designated place from the information held in the biosecurity register that the chief executive must publish on the department’s website. The effect is that the chief executive may publish the addresses recorded on the register but is not obliged to.

Clause 33 Amendment of s 180 (Exemptions from approved device requirement)

Clause 33 amends section 180 to omit the exemption for moving goats without an approved device (i.e. National Livestock Identification System device) in certain circumstances. The exemption from the approved device requirement in section 180(c) only applied where a goat was moved from the wild (commonly called a ‘rangeland goat’) to a sorting place for collection and holding, then direct from the sorting place to a meat processing facility and the movement complies with the requirements under the Regulation. Audits have revealed that a number of movements of wild goats which didn’t meet these conditions for the exemption to apply. Consequently, wild goat movements in some circumstances were being processed without adequate control and oversight and could potentially pose a biosecurity risk and compromise market access. Now in order for all wild goats to be moved without an approved device requirement, a person moving the goats must hold a travel approval and comply with its conditions.

Clause 34 Amendment of s 194 (Movement record requirement)

Clause 34 amends section 194 to reflect that movement records may be kept in electronic form and only the serial number for the record need be produced.

Clause 35 Amendment of s 197 (Keeping and producing movement record)

Clause 35 amends section 197 to reflect that movement records may be kept in electronic form and only the serial number for the record need be kept or produced.

Clause 36 Amendment of s 198 (Movement record for receiving designated animal)

Clause 36 amends section 198 to reflect that movement records may be kept in electronic form and only the serial number for the record need be kept or produced.

Clause 37 Insertion of new ch 10, pt 6

Clause 37 inserts new section 337A (Use of body-worn cameras) in part 6 to enable the lawful use of this technology to record sounds and images by authorised officers whilst exercising powers under Chapter 10.

Clause 38 Amendment of s 493 (Confidentiality of information)

Clause 38 inserts an amended definition of “confidential information” which expands the information to which confidentiality applies (subject to the exceptions listed). Confidential information is defined for the provision as any information that could identify an individual, or information about a person’s current financial position or financial background or information which would be likely to damage the commercial activities of the person to whom the information relates. Confidential information does not include publicly available information or statistical or other information that could not reasonably be expected to identify an individual to whom it relates.

Clause 39 Amendment of ch 19, pt 2, hdg (Savings and transitional provisions)

Clause 39 amends the heading of part 2, chapter 19 to reflect that part 2 only contains the saving and transitional provisions required for the original Act. This change is required due to the inclusion of new part 3 in chapter 19 by clause 40.

Clause 40 Insertion of new ch 19, pt 3

Clause 40 inserts a new part 3 in chapter 19, which contains a transitional provision for this Act.

New section 515 provides for the continuation of liability and proceedings against those who committed an offence against section 41C (Failure to comply with a biosecurity management plan) of the *Biosecurity Regulation 2016* when it was in force, despite its repeal by clause 46. Section 515 provides that a proceeding for an offence against section 41C which was committed before its repeal, may commence or continue after the repeal of section 41C and that the person who committed the offence may be convicted of and punished for the offence.

Clause 41 Amendment of sch 1 (Prohibited matter)

Clause 41 amends schedule 1 (Prohibited matter) to omit avian mycoplasmosis from part 2 as it is now endemic in Queensland and the industry has adopted vaccination programs to prevent and control the disease. This disease has also been removed from Australian notifiable disease lists and its continued listing as prohibited matter under the Act would be inconsistent with this.

Clause 41 also inserts pyriiform scale schedule 1 (Prohibited matter), part 7, which is currently prescribed as prohibited matter in schedule 1, part 1 of the *Biosecurity Regulation 2016*. Clause 62 omits the listing of pyriiform scale from the *Biosecurity Regulation 2016*.

Clause 42 Amendment of sch 2 (Restricted matter and categories)

Clause 42 amends schedule 2 (Restricted matter and categories), part 1 by inserting entries for cucumber green mottle mosaic virus and jack beardsley mealybug into the section “Restricted matter affecting plants”. These are currently prescribed as restricted matter in schedule 1, part 2 of the Biosecurity Regulation 2016.

Clause 42 also inserts melon necrotic spot virus (MNSV) into schedule 2 (Restricted matter and categories), part 1. MNSV was previously prescribed as prohibited matter rather than restricted matter in the *Biosecurity Regulation 2016*. Amending the classification of the virus removes unnecessary restrictions on Queensland industry and the trade of cucurbits into Queensland. Fruit from MNSV-infected plants are not considered to be a risk for further spread of the disease. Therefore, movement of fruit from properties where MNSV has been detected is not restricted within Queensland or other parts of Australia. The amendments in the Bill reflect the national policy of maintaining MNSV under official control but not restricting trade in fruit.

Clause 43 Amendment of sch 4 (Dictionary)

Clause 43 amends the definition of “owner” in schedule 4 to clarify its meaning with regard to owned cats and dogs.

The definition of “owner” in schedule 4 currently has two meanings depending on whether it is referring to things which have been seized under the Act or the owner of a place. The first definition provides the owner of a seized thing includes a person who would be entitled to possession of the thing had it not been seized. This is ambiguous when applied to a cat or dog. The *Animal Management (Cats and Dogs) Act 2008* is Queensland’s legislation specific to owned cats and dogs and provides clearer criteria to determine the owner of a cat or dog.

Clause 43 inserts an amendment to exclude cats and dogs from the first limb of the definition of owner of a seized thing and inserts a further definition of “owner” which specifically provides that the owner of a cat or dog is a person who owns the cat or dog under the *Animal Management (Cats and Dogs) Act 2008*.

Clause 43 also inserts a definition for “biosecurity zone map” which refers to new section 130A (inserted by clause 31).

Clause 43 also amends a subsection reference as a result of the amendment in clause 33.

Part 5 Amendment of Biosecurity Regulation 2016

Clause 44 Regulation amended

Clause 44 provides that this part amends the *Biosecurity Regulation 2016*.

Clause 45 Omission of ch 2, pt 1 (Prohibited and restricted matter regulations)

Clause 45 omits chapter 2, part 1 which refers to prohibited matter in schedule 1 of the Regulation which is being omitted by clause 65.

Clause 46 Omission of ch 2, pt 10 (Biosecurity management plans)

Clause 46 omits provisions about complying with a biosecurity management plan which clause 49 recasts as a way of meeting the general biosecurity obligation in a new part 13, in chapter 5.

Clause 47 Omission of s 45 (Meaning of *biosecurity zone map*)

Clause 47 omits section 45 which clause 31 relocates into the Act as new section 130A under new chapter 6, part 3A.

Clause 48 Amendment of s 66 (Establishing biosecurity zones—Act, s 128(1)(a))

Clause 48 amends section 66 to change the definition of the fire ant biosecurity zone map. The clause changes the definition by omitting the static version reference for the map and describing the map as the biosecurity zone map of that name as in force from time to time. The clause includes a note as a signpost to new section 130C of the Act inserted by clause 31.

Clause 49 Insertion of new ch 5, pt 13

Clause 49 inserts new chapter 5, part 13 which comprises section 94F to 94H. Existing section 47 of the *Biosecurity Regulation 2016* identified part 5 as a provision which prescribes a way of discharging a person's general biosecurity obligation for the Act, section 25. The effect of inserting a new part in chapter 5 is that a person must comply with that part in order to comply with their general biosecurity obligation.

New section 94F prescribes definitions for new Part 5.

New section 94G provides that a biosecurity management plan may be made to prevent, control or stop the spread of biosecurity matter. It may be made by a registered biosecurity entity for a designated place or by the holder of an exhibited animal authority for a place where an exhibited animal is kept under the authority. New section 94G also provides that the biosecurity management plan must be kept as a separate document and be available for inspection on request during ordinary business hours at the place. A sign must be conspicuously displayed at the management area which is the part of the place subject to the measures specified in the biosecurity management plan. The sign is to inform persons that a biosecurity management plan applies to the place and that it is an offence for a person entering, present at, or leaving the management area to fail to comply with the plan without a reasonable excuse.

New section 94H requires a person entering, present at or leaving a management area, the subject of a biosecurity management plan, to comply with the plan. The requirement does not apply if the person does not and could not have reasonably have known that a biosecurity management plan applied to the management area, or if the entity that made the plan has not complied with the requirements to keep the biosecurity management plan as a separate document and have it available for inspection during ordinary business hours and erect signs as prescribed in section 94G. Also the requirement does not apply to a person who is required or permitted under an Act to enter the management area.

Clause 50 Amendment of s 98 (Animal with microchip delivered to meat processing facility – Act, s 186(1)(a))

Clause 50 amends section 98 to provide that, when an animal with an approved device which includes a microchip is delivered to a meat processing facility and the movement record is electronic, the serial number of the electronic record must be provided to the NLIS administrator with other information about the animal and the movement.

Clause 51 Amendment of s 99 (Animal without microchip delivered to meat processing facility – Act, s 186(1)(a))

Clause 51 amends section 99 to provide that, when an animal with an approved device which does not include a microchip is delivered to a meat processing facility and the movement record is electronic, the serial number of the electronic record must be provided to the NLIS administrator with other information about the animal and the movement.

Clause 52 Amendment of s 100 (Animal with microchip slaughtered at meat processing facility – Act, s 186(1)(b))

Clause 52 amends section 100 to provide that, when an animal with an approved device that includes a microchip, is slaughtered at a meat processing facility and the movement record for the delivery of the animal was electronic, the serial number of the electronic record must be provided to the NLIS administrator with other information about the animal.

Clause 53 Amendment of s 101 (Animal without microchip slaughtered at meat processing facility – Act, s 186(1)(b))

Clause 53 amends section 101 to provide that, when an animal with an approved device which does not include a microchip, is slaughtered at a meat processing facility and the movement record for delivery of the animal was electronic, the serial number of the electronic record must be provided to the NLIS administrator with other information about the animal.

Clause 54 Amendment of s 102 (Animal with microchip delivered to saleyard or live export holding—Act, s 187(a))

Clause 54 amends section 102 to provide that, when an animal with an approved device that includes a microchip, is delivered to a saleyard or live export holding and the movement record for the animal is electronic, the serial number of the electronic record must be provided to the NLIS administrator with other information about the animal and the movement.

Clause 55 Amendment of s 103 (Animal without microchip delivered to saleyard or live export holding—Act, s 187(a))

Clause 55 amends section 103 to provide that, when an animal with an approved device that does not include a microchip, is delivered to a saleyard or live export holding and the movement record for the animal is electronic, the serial number of the electronic record must be provided to the NLIS administrator with other information about the animal and the movement.

Clause 56 Amendment of s106 (Animal with microchip moved from saleyard—Act, s 187(b))

Clause 56 amends section 106 to provide that, when an animal with an approved device that includes a microchip, is moved from a saleyard and the movement record for the animal is electronic, the serial number of the electronic record must be provided to the NLIS administrator with other information about the animal and movement.

Clause 57 Amendment of s 107 (Animal without microchip moved from saleyard—Act, s 187(b))

Clause 57 amends section 107 to provide that, when an animal with an approved device that does not include a microchip, is moved from a saleyard, and the movement record for the animal is electronic, the serial number of the electronic record must be provided to the NLIS administrator with other information about the animal and movement.

Clause 58 Amendment of s 108 (Animal delivered to restricted agricultural show—Act, s 188(2))

Clause 58 amends section 108 to provide that, where an animal is moved to a restricted agricultural show and the movement record is electronic, the serial number of the electronic record must be provided to NLIS administrator along with other information about the animal and the movement.

Clause 59 Amendment of s 109 (Animal moved from show place—Act, s 189(2))

Clause 59 amends section 109 to provide that, where an animal is moved from a show place and the movement record is electronic, the serial number of the electronic record must be provided to the NLIS administrator along with other information about the animal.

Clause 60 Amendment of s 110 (Animal with microchip delivered to transit facility—Act, s 190(2))

Clause 60 amends section 110 to provide that, where an animal is moved to a transit facility and the movement record is electronic, the serial number of the electronic record must be provided to the NLIS administrator along with other information about the animal and the transit.

Clause 61 Amendment of s 111 (Animal with microchip delivered to another place—Act, s 190(2))

Clause 61 amends section 111 to provide that, when an animal with an approved device that includes a microchip, is moved to a place, other than a transit facility, and the movement record for the animal is electronic, the serial number of the electronic record must be provided to the NLIS administrator along with other information about the animal and the movement.

Clause 62 Amendment of s 112 (Animal without microchip delivered to another place—Act, s 190(2))

Clause 62 amends section 112 to provide that, when an animal with an approved device that does not include a microchip, is moved to a place, other than a transit facility, and the movement record for the animal is electronic, the serial number of the electronic record must be provided to the NLIS administrator along with other information about the animal and the movement.

Clause 63 Amendment of s 113 (Animal with microchip delivered to another place—Act, s 190(4))

Clause 63 amends section 113 to provide that, when an animal with an approved device that includes a microchip, is moved to another place, and the movement record for the animal is electronic, the serial number of the electronic record must be provided to the NLIS administrator along other information about the animal and the movement.

Clause 64 Amendment of s 114 (Animal without microchip delivered to another place—Act, s 190(4))

Clause 64 amends section 114 to provide that, when an animal with an approved device that does not include a microchip, is moved to another place, and the movement record for the animal is electronic, the serial number of the electronic record must be provided to the NLIS administrator along with other information about the animal and the movement.

Clause 65 Omission of sch 1 (Biosecurity matter declared to be prohibited or restricted matter)

Clause 65 omits schedule 1 because clauses 41 and 42 will prescribe all the biosecurity matter currently listed in schedule 1 of the Regulation as prohibited matter or restricted matter in schedules 1 or 2 of the Act respectively.

Clause 66 Amendment of sch 11 (Dictionary)

Clause 66 amends the definition of “biosecurity management plan” in the Dictionary to update the signpost to chapter 5, part 13. It also omits the definition of “biosecurity zone map” which is redundant because clause 38 inserts a definition in the Act. It also updates the signpost for “management area” to chapter 5, part 13, section 94F.

Part 6 Amendment of Chemical Usage (Agricultural and Veterinary) Control Act 1988

Clause 67 Act amended

Clause 67 provides that this part amends the *Chemical Usage (Agricultural and Veterinary) Control Act 1988*.

Clause 68 Insertion of new s 13F

Clause 68 inserts new section 13F which provides a definition of the term “relevant thing” which was moved from subsection 16(7) (refer clause 70) because it is used widely in division 4.

Clause 69 Replacement of ss 15 and 15A

Clause 69 omits sections 15 and 15A and consolidates them into a new section 15, which clarifies the reporting obligations of persons who become aware of chemical residues in or on a relevant thing that are more than the prescribed maximum residue limit.

Clause 70 Amendment of s 16 (Agricultural produce etc. containing chemical residues not to be used etc.)

Clause 70 omits the definition of “relevant thing” from subsection 16(7) because clause 68 moves it to new section 13F.

Clause 71 Insertion of new s 20A

Clause 71 inserts new section 20A (Use of body-worn cameras) to enable the lawful use of this technology to record sounds and images by inspectors whilst exercising powers under the Act.

Clause 72 insertion of new ss 35 and 36

Clause 72 inserts new section 35 and 36.

Section 35 provides for the confidential treatment of “confidential information” by any person who is or has been the chief executive, an inspector, an analyst, a standards officer, a deputy standards officer or another person involved in administering the Act, for example a public service employee, obtained when administering, or performing functions or exercising powers under the Act. It provides that the information must not be used or disclosed unless it is in the performance of a function or exercise of a power under the Act, or the person to whom the information relates has given their consent or it is otherwise required or permitted by law. The clause provides a maximum penalty of 50 penalty units for non-compliance.

Section 35 defines “confidential information” as any information that could identify an individual, or information about a person’s current financial position or financial background or information which would be likely to damage the commercial activities of the person to whom the information relates. It extends to information obtained through the use of body-worn cameras. Confidential information does not include publicly available information or statistical or other information that could not reasonable be expected to identify an individual to whom it relates.

New section 36 (Exchange of information with prescribed government entity) provides for an information sharing arrangement with a prescribed government entity to share or exchange information that helps in the performance of a function under the Act or a law of the State, another State or the Commonwealth.

Clause 73 Amendment of schedule (Dictionary)

Clause 73 amends the schedule (Dictionary) to provide a signpost to the new location for the definition of “relevant thing”.

Part 7 Amendment of Drugs Misuse Act 1986**Clause 74 Act amended**

Clause 74 provides that this part amends the *Drugs Misuse Act 1986*.

Clause 75 Insertion of new s 101A

Clause 75 inserts new section 101A (Use of body-worn cameras) to enable the lawful use of this technology to record sounds and images by inspectors whilst exercising powers under part 5B, division 12 of the Act.

Clause 76 Insertion of new s113

Clause 76 inserts new section 113 which provides for the confidential treatment of “confidential information” by persons who are or have been the chief executive, an inspector or another person involved in administering the Act, including for example, a public service employee, obtained when administering, or performing functions or exercising powers under part 5B of the Act. It provides that it must not be used or disclosed unless it is in the performance of a function or exercise of a power under the Act or with the consent of the person to whom the information relates. The clause provides a maximum penalty for non-compliance of 50 penalty units.

New section 113 defines “confidential information” as any information that could identify an individual, or information about a person’s current financial position or financial background or information which would be likely to damage the commercial activities of the person to whom the information relates. It extends to information obtained through the use of body-worn cameras. Confidential information does not include publicly available information or statistical or other information that could not reasonably be expected to identify an individual to whom it relates.

Part 8 Amendment of Exhibited Animals Act 2015**Clause 77 Act amended**

Clause 77 provides this part amends the *Exhibited Animals Act 2015*.

Clause 78 Insertion of new s 22A

Clause 78 inserts new section 22A (Duty of other persons in relation to general exhibition and dealing obligation). New section 22A requires a relevant person to take reasonable care that their acts or omissions do not cause or increase a relevant risk associated with exhibiting or dealing with an exhibited animal. A relevant person must also comply with any reasonable instruction given by a responsible person to allow the responsible person to comply with their

general exhibition and dealing obligation in relation to the exhibited animal. The maximum penalty for non-compliance is 100 penalty units.

Clause 79 Insertion of new ch 6, pt 3, div 3A

Clause 79 inserts new chapter 6, part 3, division 3A (Power to give direction to move) which comprises new section 188A to 188C.

New section 188A provides that new division 3A applies when an inspector reasonably believes, or is aware, that a person is contravening new section 28A.

New section 188B provides an inspector with the power to direct a person to leave the land immediately if the contravention is on private land or to move away from the place to within a reasonable distance if on public land. It also provides that when giving the direction, the inspector must give an offence warning for the direction.

New section 188C provides an offence for failing to comply with the inspector's direction unless a person has a reasonable excuse which carries a maximum penalty of 100 penalty units. It is a reasonable excuse if a person does not comply with the direction immediately because it would endanger the person or someone else or cause loss or damage to property and the person complies as soon as it is practicable to do so. Also, the offence does not apply if the inspector did not give an offence warning for the direction.

Clause 80 Insertion of new s 222A

Clause 80 inserts new section 222A (Use of body-worn cameras) to enable the lawful use of this technology to record sounds and images by inspectors whilst exercising powers under chapter 6 of the Act.

Clause 81 Amendment of s 256 (Confidentiality of information)

Clause 81 amends section 256 by inserting an amended definition of "confidential information" for consistency with provisions of other legislation which provide for confidentiality of information. The new definition expands the scope of information to which confidentiality applies (subject to the exceptions listed). Confidential information is defined as any information that could identify an individual, or information about a person's current financial position or financial background or information which would be likely to damage the commercial activities of the person to whom the information relates. Confidential information does not include publicly available information or statistical or other information that could not reasonably be expected to identify an individual to whom it relates.

Clause 82 Insertion of new s 260A

Clause 82 inserts new section 260A to provide that the chief executive may give a notice or other document to a person at an electronic address, such as an email address or mobile phone number, but only if the person has provided the address for a communication purpose and has not asked the chief executive to discontinue using it. Expanding the forms of communication that the chief executive may use will facilitate faster, more efficient and cost-effective delivery of various types of information and documents, such as licences, renewal notices and show cause notices.

Clause 83 Amendment of schedule 2 (Dictionary)

Clause 83 amends schedule 2 to insert a definition of “*private land*” which is a term used in the new sections inserted by clauses 78 and 79.

Part 9 Amendment of Farm Business Debt Mediation Act 2017

Clause 84 Act amended

Clause 84 provides that this part amends the *Farm Business Debt Mediation Act 2017*.

Clause 85 Amendment of s 8 (Particular references)

Clause 85 amends section 8 to provide that a reference to the farm property is a reference to the farm property that is subject to the farm mortgage to secure a farm business debt. It omits the requirement for the farmer to own the farm property. This reflects the fact that not all farmers own the property that is the subject of the mortgage and by inference, recognises that various arrangements exist including some which see the property and loan placed in different names.

Clause 86 Amendment of s 11 (Application of Act)

Clause 86 amends section 11 to update expressions to align with current Commonwealth legislation.

Clause 87 Amendment of s 15 (Asking for mediation)

Clause 87 amends section 15 to omit the requirement for the form, which a farmer completes when seeking mediation, to nominate a single mediator. Instead, section 5 of the *Farm Business Debt Mediation Regulation 2017* reflects that the practice is to always nominate three mediators.

Clause 88 Insertion of new s 25A

Clause 88 inserts new section 25A which provides that a mediator may also allow a relevant person to attend mediation. A “relevant person” is defined as a person, other than a party to the mediation, who has a legal or equitable interest in the farm property the subject of the mortgage or is liable for the farm business debt. This reflects that there may be other persons who may have an interest in the mediation, such as another borrower.

Clause 89 Amendment of s 49 (Grounds)

Clause 89 amends section 49 to clarify that a ground for issuing an exemption certificate to avoid mediation, applies where the farmer and the mortgagee already took part in mediation under this Act and the mediation considered matters relating to the farmer’s default and the mediation was satisfactory. The purpose of the amendment is to clarify that it is not a ground if the mediation did not occur under this Act.

Clause 90 Amendment of s 53 (When a farmer has failed to mediate)

Clause 90 amends section 53 to clarify that for the purposes of determining whether a farmer has failed to mediate, the farmer has failed to mediate and is taken not to have intended to mediate, if the matters in subsections 53(2)(a) or (b) or (c) or (d) are met. This represents a small change in wording of the provision to match the wording of the ground for granting an exemption certificate under section 49(1)(b).

Clause 90 also corrects an error in subsection 53(2)(a). In determining whether a farmer has failed to mediate, the number of business days to have elapsed after the notice was given, during which time the farmer was to request mediation, should have been 20 business days, not 15. After an enforcement action notice has been served on the farmer, the period of time within which the farmer must ask for mediation under subsection 14(3) is no less than 20 business days. If the farmer does not request mediation within this time the mortgagee may consider the farmer has declined mediation, therefore the periods in both subsection 53(2)(a) and subsection 14(3) need to be the same.

Clause 91 Amendment of s 60 (Appropriately qualified and suitable person)

Clause 91 amends section 60 to update expressions to align with current Commonwealth legislation.

Clause 92 Amendment of s 92 (Application of Act)

Clause 92 amends section 92 to clarify when this Act does not apply by omitting the term “heads of agreement” which has caused some stakeholders confusion because this is a term also used in this Act. The clause makes it clear that this Act does not apply if the farmer and the mortgagee took part in mediation for the farm business debt under the Queensland farm finance strategy and entered into an agreement (however called) in writing because of the mediation.

Clause 93 Amendment of sch 1 (Dictionary)

Clause 93 amends schedule 1 (Dictionary) to omit terms which are no longer required due to the amendments in clauses 86 and 91.

Clause 93 also amends the definition of “farmer” to insert ‘or entity’ in some places to ensure that a type of entity is not excluded from being a farmer only because it is not a “person” under Queensland legislation.

Part 10 Amendment of Fisheries Act 1994**Division 1 Preliminary****Clause 94 Act amended**

Clause 94 provides that this part amends the *Fisheries Act 1994*.

Division 2 Amendments commencing on assent**Clause 95 Amendment of s 35 (Regulated waters declaration)**

Clause 95 amends section 35 to clarify that waters includes foreshores and non-tidal land. This clause is necessary to describe some regulated waters which encompass foreshores and non-tidal land, for example where the habitat of a fish extends to these areas or activities in relation to the taking of fish occur from the foreshore.

Clause 96 Amendment of schedule (Dictionary)

Clause 96 amends the definition of “fisheries legislation” in the schedule (Dictionary) to include a former law of the Commonwealth. The most significant effect is that certain things that happened under those laws are a ground when making decisions about issue or renewal and suspension or cancellation of an authority under section 59 and 67 of the Act respectively.

Division 3 Amendment commencing by proclamation**Clause 97 Amendment of s 78 (Prohibited acts about regulated fish)**

Clause 97 clarifies the offence prohibiting acts about regulated fish. The amendments were necessary as it was previously unclear how a regulated fish declaration about taking or possessing a fish affected the using and selling of the fish.

Part 11 Amendment of Food Production (Safety) Act 2000**Clause 98 Act amended**

Clause 98 provides that this part amends the *Food Production (Safety) Act 2000*.

Clause 99 Amendment of s 16B (Role of board)

Clause 99 amends section 16B so that the advisory committee referred to in this section is not the Food Safety Advisory Committee which clause 103 is removing from the Act, but may be any committee established to fulfil an advisory role.

Clause 100 Insertion of new s 16EA

Clause 100 inserts new section 16EA (Acting chairperson) to provide that the Minister may appoint a director to act as the chairperson of the Board during any or all vacancies or any periods when the chairperson is absent or cannot perform the duties of the office.

Clause 101 Insertion of new s 20A

Clause 101 inserts new section 20A (Acting chief executive officer) to provide that the Board may appoint a person, who is eligible to be appointed as chief executive officer, to act as Safe Food’s chief executive officer during any or all vacancies or any periods when the chairperson is absent or cannot perform the duties of the office.

Clause 102 Amendment of s 21 (Responsibilities of chief executive officer)

Clause 102 amends section 21 to provide that the chief executive must advise the board about the activities of any advisory committee which has been established.

Clause 103 Omission of pt 3 (Food Safety Advisory Committee)

Clause 103 omits part 3 which provides for the establishment and functions of the Food Safety Advisory Committee. This part is no longer required as it is proposed that various committees may be established by the Minister on an “as needs” basis, as provided under clause 106.

Clause 104 Amendment of s 39 (Making food safety schemes)

Clause 104 amends section 39 by omitting provisions referring to the advisory committee with which the Minister and Safe Food must consult prior to making a food safety scheme. This amendment is desirable as there are other mechanisms by which appropriate advice may be provided to the Minister and Safe Food. The clause also renumbers the remainder of the section.

Clause 105 Amendment of s 62 (Deciding applications)

Clause 105 amends section 62 to omit the provision which require Safe Food to only approve guidelines if it has consulted with the advisory committee. This requirement will become redundant when clause 103 omits the Food Safety Advisory Committee.

Clause 106 Insertion of new s 132A

Clause 106 inserts new section 132A (Advisory committees) which provides that the Minister may establish advisory committees the Minister considers appropriate and with functions the Minister decides. These advisory committees are intended to be established to provide advice as needed, for example on specific issues or food safety programs. They may dissolve once they have fulfilled the purpose for which they were established.

Clause 107 Insertion of new pt 11, div 5

Clause 107 inserts new part 11, division 5 (Transitional provision for Agriculture and Other Legislation Amendment Act 2019) which comprises only section 140V. New section 140V (Food Safety Advisory Committee) provides that on commencement of the Act, the Food Safety Advisory Committee is dissolved and the members of the committee go out of office. The clause provides that compensation is not payable to a member of the committee because of the Committee’s dissolution.

Clause 108 Insertion of new sch 1, s 4A

Clause 108 inserts new schedule 1, section 4A (Resignation of director) which provides that a director may resign by written notice given to the Minister.

Clause 109 Replacement of sch 1, s 10 (Senior executive may attend board meetings)

Clause 109 replaces schedule 1, section 10 with a new section 10 (Delegations) which provides that a director of the board in section 16C(1)(a) or (b) that is, the chief executive or the health

chief executive) may delegate their functions under this Act to an appropriately qualified senior executive of the public service.

Clause 110 Amendment of sch 2 (Dictionary)

Clause 110 amends schedule 2 (Dictionary) to omit the definition of “advisory committee” and amend the definition of “chairperson”, as a consequence of the omission of Part 3 by clause 103.

Part 12 Amendment of Forestry Act 1959

Clause 111 Act amended

Clause 111 provides that this part amends the *Forestry Act 1959*.

Clause 112 Amendment of s 32B (Particular areas of conservation value to be removed from State plantation forest)

Clause 112 amends section 32B to remove particular areas of conservation value from State plantation forest as they have been surrendered by the plantation licensee.

Clause 113 Amendment of s 46 (Sale of forest products or quarry material)

Clause 113 amends section 46 to omit subsections 46(3) and (4). Section 46 provides the chief executive with the power to sell forest products or quarry material. Section 46(3) provides a list of conditions that may be imposed, while section 46(4) includes definitions relevant only to section 46(3). The issue created by subsection 46(3) is that a decision not to apply those conditions listed may be seen as improperly made, this is despite the broad powers conveyed to the chief executive under the section. Additionally, in 2007 the chief executive granted a number of long-term sales permits for native forest hardwood sawlogs for 18 years, which were subsequently varied to be on a rolling term basis of 15 years. Although their initial terms do not exceed 25 years, with on-going rollover the total permit periods will exceed 25 years. There is a risk a person may interpret these subsections to suggest that permits issued under section 46 potentially contravene the Act or its intention. Although subsections 46(3) and (4) are being omitted from the Act, the provisions of each will be included as conditions on future permits.

Clause 114 Amendment of s 72 (Wild stock)

Clause 114 amends section 72 to reduce the pre-muster notification period for wild stock that are unlawfully in a State forest, timber reserve, forest entitlement area or forest consent area. Subsection 72(1AA) provides a more effective method of notifying relevant persons by inserting a requirement of the chief executive to give notice of intended muster to neighbouring landholders and persons reasonably believed to be the owner of stock, at least five business days prior to the intended muster under subsection 72(1AB). These new notification requirements are similar to those for conducting a general stock muster in a national park, under section 153 of the *Nature Conservation (Protected Area Management) Regulation 2017*. Clause 114(2) amends subsection 72(6)(b) to omit the action of impounding animals by private persons under the *Local Government Act 2009* which does not exist under that Act and provides that all other stock must be dealt with in accordance with new subsection 72(6)(A). The clause inserts new subsection 72(6)(A) which provides the procedure for dealing with all stock. The

clause provides a definition under section 72(9) of “relevant landholder” as being a landholder that adjoins the affected area which is the area on which the stock to be mustered are present.

Clause 115 Amendment of s 82A (Seizure and forfeiture of vehicles)

Clause 115 insert the words “by forest officer” in the section heading of section 82A to distinguish that this section applies to the seizure and forfeiture of vehicles from a State forest or timber reserve only by forest officers, not the plantation licensee who is provided separate powers for this purpose under clause 116.

Clause 115 also inserts abandonment as a further reason a forest officer may seize, remove and detain a vehicle. Section 74, whilst it deals with unauthorised buildings and other abandoned things, included a requirement to have a complaint from either a forest officer or a plantation officer heard by a Magistrate in order to set a time for removal of the thing. This procedure does not facilitate timely removal of an abandoned vehicle that reflects the risks abandoned vehicles pose to human safety, amenity and the environment.

Clause 116 Insertion of new ss 82N and 82O

Clause 116 inserts new section 82N (Seizure of vehicles by plantation officer) and new section 82O (Chief executive may order forfeiture of particular vehicles to plantation licensee).

New section 82N provides the power for a plantation officer to seize, remove and detain a vehicle, which is in an area the subject of the plantation licensee’s licence, if the officer reasonably believes the vehicle is abandoned. Section 82N also provides that the plantation officer must, if reasonably satisfied a person is the owner of a detained vehicle, return the vehicle to the person who claims a proprietary interest in the vehicle and provides the officer with evidence of their ownership. The plantation officer must ensure the person to whom the vehicle is returned signs a receipt for the vehicle.

New section 82O provides that if a vehicle has been seized under new subsection 82N(1) and the owner of the seized, abandoned vehicle cannot be found after reasonable enquiries have been made, or it is not reasonable to make enquiries about the owner, the chief executive may order forfeiture of the vehicle to the plantation licensee. The plantation licensee may dispose of the vehicle in the way the plantation licensee decides. As most abandoned vehicles do not have any monetary value, it is intended for expediency that the power of the chief executive under this new section will be delegated to the plantation licensee under section 96B as amended by clause 118. In effect, the plantation licensee will forfeit a seized abandoned vehicle themselves.

Clause 117 Amendment of s 83 (Dealing with forfeited forest products etc.)

Clause 117 amends section 83 to make clear that forest products, quarry material, earth or any vehicle or incidental thing seized which is forfeited to the State under this Act, shall be dealt with or disposed of as the chief executive directs. This clause in effect separates the forfeiture powers of forest officers from those of plantation officers which are provided for by new section 82O and the amendments in clause 118.

Clause 118 Amendment of s 96B (Delegation by chief executive—State plantation forests)

Clause 118 amends section 96B to provide that the chief executive's function under new section 82O may be delegated to the plantation licensee to enable the plantation licensee to forfeit seized abandoned vehicles to itself for disposal without having to seek the chief executive's approval in each instance.

Part 13 Amendment of Forestry Regulation 2015**Clause 119 Regulation amended**

Clause 119 provides that this part amends the *Forestry Regulation 2015*.

Clause 120 Amendment of sch 2 (State plantation forests)

Clause 120 amends schedule 2 as a consequence of the amendments to section 32B of the Act made by clause 112. Sub-clause (1) rectifies a mapping error on PLP0207 which has been corrected using contemporary survey mapping technology. Sub-clauses (2) and (3) omit references to the lots that are no longer plantation forest and which have been surrendered by the plantation licensee for inclusion in the protected area estate.

Part 14 Amendment of Nature Conservation Act 1992**Clause 121 Act amended**

Clause 121 provides that this part amends the *Nature Conservation Act 1992*.

Clause 122 Insertion of new s 132B

Clause 122 inserts new section 132B (Decision about prescription of wildlife in particular circumstances) to implement a recommendation of the Queensland Audit Office (QAO) from its report "Conserving threatened species (Report 7: 2018–19)". The QAO's objective in auditing the process of threatened species classification, was to assess whether the Department administering the Act was effectively identifying, assessing, listing, monitoring and reporting on threatened species. The QAO identified that there were lengthy delays in the classification of threatened species and recommended that the legislation be amended so that the Minister's decision on whether to add, delete or reclassify a species is reflected in the *Nature Conservation (Wildlife) Regulation 2006* within a specified timeframe after receiving the Species Technical Committee's recommendation. The clause formally establishes a role for the Minister in this process and provides that the Minister must decide, within 30 business days of receiving a recommendation from the Species Technical Committee, whether to recommend the making of a regulation to the Governor in Council to prescribe a class of wildlife.

Part 15 Amendment of Racing Act 2002**Clause 123 Act amended**

Clause 123 provides that this part amends the *Racing Act 2002*.

Clause 124 Insertion of new s 113A

Clause 124 inserts new section 113A (Application of rules of racing) to clarify how the three rules of racing are to be applied taking into consideration the functions of the Queensland Racing Integrity Commission. The clause provides that, if a rule of racing provides for an entity to perform a function that is a function of the Commission or take action in a matter that relates to the performance of the Commission's function, it is the Commission and not another entity that may perform the function or take the action. Such actions include appointing stewards and penalising participants. A reference in the rules of racing to certain stated bodies is to be taken to be a reference to the Commission if the rule relates to a function of the Commission.

Clause 125 Insertion of new ch 9

Clause 125 inserts new chapter 9 (Transitional and validating provisions for Agriculture and Other Legislation Amendment Act 2019) which comprises new sections 225 and 226.

New section 225 provides that new section 113A is to apply retrospectively for all purposes under the Act from the expiry of the *Racing (Transitional) Regulation 2016* (expired Regulation) on 1 July 2017. This does not limit the interim standard which was made by the Commission to continue arrangements as if under the expired Regulation.

New section 226 (Validation of particular acts and omissions done before commencement) validates any acts or omissions which may have been done prior to commencement of new section 113A to the extent they were invalid or unlawful as if new section 113A was in force at the time.

Clause 125 is intended to avert the possibility of a legal challenge to decisions which were made after the expired Regulation under the interim standard.

Part 16 Amendment of Rural and Regional Adjustment Act 1994

Clause 126 Act amended

Clause 126 provides that this part amends the *Rural and Regional Adjustment Act 1994*.

Clause 127 Insertion of new s 16CA

Clause 127 inserts new section 16CA (Acting chairperson) which provides that the Minister may appoint any director of the board to act as the chairperson of the board during any or all vacancies or any periods when the chairperson is absent or cannot perform the duties of the office.

Clause 128 Insertion of new s 32A

Clause 128 inserts new section 32A (Resignation) which provides that the chief executive officer may resign by written notice given to the Minister.

Part 17 Amendment of State Penalties Enforcement Regulation 2014

Clause 129 Regulation amended

Clause 129 provides that this part amends the *State Penalties Enforcement Regulation 2014*.

Clause 130 Amendment of sch 1 (Infringement notice offences and fines for nominated laws)

Clause 130 amends schedule 1 to provide that the general biosecurity offence is an infringement notice offence where a person does not comply with a biosecurity management plan when entering, present at or leaving a management area under section 94H(1) of the *Biosecurity Regulation 2016* as amended by clause 49. The infringement notice penalty is five penalty units where it is not an aggravated offence and it does not relate to either prohibited or restricted matter.

Clause 130 also amends schedule 1 to omit the penalty infringement notice for the offence in section 41C which is being omitted by clause 46.

Clause 130 also amends schedule 1 to increase the relevant infringement notice penalty from 1 to 2 to reflect that the maximum penalty for the offence under section 13 of the *Summary Offences Act 2005* is being increased from 10 penalty units or six months' imprisonment to 20 penalty units or one year's imprisonment. It further amends the entry for section 13 to reflect the changes in the structure of section 13 made by clause 132.

Part 18 Amendment of Summary Offences Act 2005

Clause 131 Act amended

Clause 131 provides that this part amends the *Summary Offences Act 2005*.

Clause 132 Amendment of s 10A (Unlawful assembly)

Clause 132 amends section 10A (Unlawful assembly) to make a gathering of three or more persons on land mentioned in section 13(1) (which is being amended by clause 133) unlawful if the conduct of the persons taken together would cause a person in the vicinity to believe on reasonable grounds that the conduct poses a risk to the health and safety of a person or a risk to the welfare of an animal or a biosecurity risk or the conduct is likely to cause an economic loss to a business carried out on the land or a risk to the safety of food produced for human or animal consumption. In this way, the amended offence will address a range of risks that may be posed by gatherings of people which are conducted without sufficient regard to the rights of others and the public interest.

Clause 132 provides an example to clarify what is intended by conduct likely to cause economic loss to a business carried out on the land. The example is conduct that stops, or interferes with, the operation of equipment or machinery that is necessary for the business's production of a product. This indicates that the intended conduct is actions which directly disrupt the operation of the business. It is not intended, for example, to capture conduct which simply expresses a

view which could influence markets for the product and indirectly result in losses for the business in the longer term.

Clause 132 also inserts a subsection 10A(2A) which expressly provides that subsections (1)(b)(ii) and (2)(c)(ii) apply subject to the *Industrial Relations Act 2016*. The effect of subsection (2A) is that lawful industrial action conducted under the *Industrial Relations Act 2016* is not an offence under section 10A of the *Summary Offences Act 2005*. Subsection (2A) is silent about Federal industrial relations legislation because Federal laws protecting industrial action will override section 10A by virtue of section 109 of the Constitution.

Clause 133 Replacement of s 13 (Unlawfully entering farming land etc.)

Clause 133 replaces section 13 (Unlawfully entering farming land etc.) with a new section 13 (Unlawfully entering or remaining on particular land). The clause applies the existing offence to land used for a broader range of purposes. For example, it includes animal holding facilities, such as an abattoir, agricultural showground or live export holding facility, and animal exhibitions. The maximum penalty under the new section 13 has been doubled to 20 penalty units or 12 month's imprisonment to reflect the gravity of the fear created and damage caused by persons unlawfully entering farming land.

Part 19 Amendment of Veterinary Surgeons Act 1936

Clause 134 Act amended

Clause 134 provides that this part amends the *Veterinary Surgeons Act 1936*.

Clause 135 Amendment of s 8 (Board to hold triennial election)

Clause 135 amends section 8 to provide that an election of members to the board must be held every three years. Instead of the election being conducted on a specified day as determined by the board and no later than 30 June, the clause provides a period within which the election must be conducted. The new period is more than six months, but not more than one year, before the term of appointment of the elected members of the board ends. The intent is to provide a greater period of time from when the election is held until the term of the elected members ends, to avoid delays in the finalisation of appointments as has occurred previously.

Part 20 Minor and consequential amendments

Clause 136 Legislation amended

Clause 136 states that schedule 1 amends the legislation listed in the schedule.

Schedule 1 Other amendments

Animal Care and Protection Act 2001

1 Section 114(2)(a)(ii), ‘Queensland Incorporated’—

Item 1 reflects the change of the RSPCA title to the Royal Society for the Prevention of Cruelty to Animals (Queensland) Limited.

2 Schedule, definition *prescribed entity*, paragraph (a), ‘Queensland Incorporated’—

Item 2 reflects the change of the RSPCA title to the Royal Society for the Prevention of Cruelty to Animals (Queensland) Limited.

Animal Care and Protection Regulation 2012

1 Section 8, ‘Queensland Incorporated’—

Item 1 reflects the change of the RSPCA title to the Royal Society for the Prevention of Cruelty to Animals (Queensland) Limited.

Animal Management (Cats and Dogs) Act 2008

1 Schedule 2, definition *authorised implanter*, paragraph (a)(i), ‘PIDs’—

Item 1 makes an editorial correction.

2 Schedule 2, definition *primary producer*, paragraph (a)(ii), ‘maize, or’—

Item 2 makes an editorial correction.

Biosecurity Act 2014

1 Section 435K, heading, ‘Accreditation’—

Item 1 replaces ‘accreditation’ with ‘approval’.

2 Section 435K(2)(a), ‘this division’—

Item 2 amends an incorrect division reference.

3 Section 482(2), ‘subsection (1)(f)(i)’—

Item 3 amends an incorrect section reference.

Environmental Offsets Act 2014

1 Section 18(5)(b), example, from ‘Land Protection’ to ‘pests’—

Item 1 updates a legislative reference to the general biosecurity obligation under the Biosecurity Act.

Fisheries Act 1994

1 Section 217(1), definition *official*, paragraphs (d) and (e)—

Item 1 renumbers paragraphs.

Food Production (Safety) Act 2000

1 Section 81(b), after ‘or’—

Item 1 makes an editorial correction.

Justices Act 1886

1 Section 4, definition *RSPCA inspector*, paragraph (b), ‘Queensland Incorporated’—

Item 1 reflects the change of the RSPCA title to the Royal Society for the Prevention of Cruelty to Animals (Queensland) Limited.

Racing Act 2002

1 After chapter 3, part 2 heading—

Item 1 inserts a heading for division 1.

2 Chapter 7, part 2, heading, ‘provisions’—

Item 2 makes an editorial correction.

3 Chapter 7, part 2, division 7, heading—

Item 3 makes an editorial correction.