Western Australia

Biosecurity and Agriculture Management Act 2007

Biosecurity and Agriculture Management Regulations 2013

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Biosecurity and Agriculture Management Regulations 2013

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Biosecurity and Agriculture Management Regulations 2013

Part 1 — Preliminary

1. Citation

These regulations are the *Biosecurity and Agriculture Management Regulations 2013*.

2. Commencement

These regulations come into operation as follows —

(a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;

(b) the rest of the regulations — on the day on which Part 2 Division 1 of the Act comes into operation.

3. Terms used

In these regulations, unless the contrary intention appears —

amend includes, in relation to an authorisation —

(a) impose a condition on the authorisation; and

(b) revoke or amend a condition already imposed on the authorisation;

apiary means a hive standing alone or any 2 or more hives standing in a group;

approved means approved by the Director General;

approved quarantine facility means a place approved under regulation 110 as a quarantine facility;

bee means a bee of the species *Apis mellifera*;

beekeeper means —

(a) a person who owns, or has the charge, care or possession of, bees or any hive that contains, or has contained, bees; and

(b) where a person referred to in paragraph (a) is a body corporate, each of the directors of the body corporate;

category 1 declared pest means —

(a) any declared pest assigned under section 22(3) to category 1 as designated by regulation 7(1);

(b) any prohibited organism assigned under regulation 8(3) to category 1 as designated by regulation 8(1);

category 2 declared pest means —

(a) any declared pest assigned under section 22(3) to category 2 as designated by regulation 7(1);

(b) any prohibited organism assigned under regulation 8(3) to category 2 as designated by regulation 8(1);

category 3 declared pest means any declared pest assigned under section 22(3) to category 3 as designated by regulation 7(1);

commercial passenger carrier has the meaning given in section 19(1);

condition includes limitation or restriction;

contact details of an individual means the following —

(a) the address of where the individual is living and the address of where the individual usually lives;

(b) a telephone number or numbers on which the individual can be contacted during and after working hours;

(c) a facsimile number and email address on which the individual can be contacted;

declared pest animal means an animal that is a declared pest;

DP area, in relation to an organism that is a declared pest, means —

(a) in the case of a prohibited organism, the whole of the State; and

(b) in the case of any other declared pest, the area of the State for which the organism is declared to be a declared pest;

hive product means honey, pollen, beeswax and propolis;

permit means an import permit or other permit granted and in force under Part 8;

permit holder means a person to whom a permit has been granted;

prescribed potential carrier means a potential carrier prescribed under regulation 5;

section means section of the Act;

stock means an animal prescribed under regulation 4;

terrestrial vertebrate means an animal that —

(a) is a mammal, bird, reptile or amphibian; and

(b) lives on the ground, or is arboreal or aerial, and is not aquatic;

vessel means a ship, boat or other description of vessel used or capable of being used as a means of transportation by water.

[Regulation 3 amended: Gazette 6 Sep 2019 p. 3185.]

4. Stock: meaning of term (section 6)

Living animals of a type set out in Schedule 1 are prescribed for the purposes of the definition of ***stock*** in section 6.

5. Prescribed potential carriers

For the purposes of the Act each of the following is a prescribed potential carrier —

(a) new or used machinery or equipment, or a part of machinery or equipment, used or intended to be used, or manufactured for use —

(i) in association with an agricultural activity or an agricultural product; or

(ii) in association with animals, plant material or soil; or

(iii) in earthmoving or mining;

(b) an animal or animal product;

(c) animal feed of plant origin, but not including processed animal feed or manufactured animal feed (as those terms are defined in section 9(2)) for dogs, cats or fish;

(d) a plant, other than a canned or cooked plant;

(e) canned seed;

(f) absorbent pet litter derived from plant material;

(g) soil;

(h) plant growing media and landscaping material, e.g. woodchips, potting mix, mulch;

(i) a cargo container;

(j) a container of any kind used for or in connection with agricultural products;

(k) a container used to transport animals (other than dogs or cats);

(l) a container of, and any contents included in a container of, live fish;

(m) non-potable water;

(n) a vessel;

(o) vessel ballast water;

(p) a vehicle.

6. Notes

Notes in these regulations are provided to assist understanding and do not form part of the regulations.

7. Categories of declared pests

(1) The following categories are designated in accordance with section 22(3) as the control categories to which a declared pest other than a prohibited organism may be assigned for the reasons stated in relation to that category —

(a) *Category 1 (C1) — Exclusion*: if in the opinion of the Minister introduction of the declared pest into an area or part of an area for which it is declared should be prevented;

(b) *Category 2 (C2) — Eradication*: if in the opinion of the Minister eradication of the declared pest from an area or part of an area for which it is declared is feasible;

(c) *Category 3 (C3) — Management*: if in the opinion of the Minister eradication of the declared pest from an area or part of an area for which it is declared is not feasible but that it is necessary to —

(i) alleviate the harmful impact of the declared pest in the area; or

(ii) reduce the number or distribution of the declared pest in the area; or

(iii) prevent or contain the spread of the declared pest in the area.

(2) The following categories are designated in accordance with section 22(3) as the keeping categories to which a declared pest

other than a prohibited organism may be assigned for the reasons stated in relation to that category —

(a) *Prohibited keeping*: if in the opinion of the Minister keeping the declared pest in an area or part of an area for which it is declared should be prohibited except under the authority of a permit to keep —

(i) at a zoological park; or

(ii) at a scientific organisation approved by the Minister; or

(iii) for scientific, education or government operational purposes;

(b) *Restricted keeping*: if in the opinion of the Minister keeping the declared pest in an area or part of an area for which it is declared should be restricted to keeping —

(i) under the authority of a permit; or

(ii) in an approved quarantine facility in accordance with the terms and conditions set out in the approval of the quarantine facility;

(c) *Exempt keeping*: if in the opinion of the Minister keeping the declared pest in an area or part of an area for which it is declared should be exempt from any requirement under the Act in relation to keeping.

(3) A declaration under section 22 assigning a declared pest to a category designated by this regulation must specify the area or any part of an area for which the declared pest is assigned to the category.

(4) If a declaration under section 22 does not assign a declared pest to a keeping category designated by subregulation (2), the declared pest is to be taken to have been assigned for the whole of the area for which it is declared to the keeping category designated under subregulation (2)(a) (Prohibited keeping).

[Regulation 7 amended: Gazette 6 Sep 2019 p. 3186.]

8. Categories of prohibited organisms

(1) The following categories are designated as the control categories to which a prohibited organism may be assigned for the reasons stated in relation to that category —

(a) *Category 1 (C1) — Exclusion*: if in the opinion of the Minister introduction of the prohibited organism into the State or a part of the State should be prevented;

(b) *Category 2 (C2) — Eradication*: if in the opinion of the Minister eradication of the prohibited organism from the State or a part of the State is feasible.

(2) The following categories are designated as the keeping categories to which a prohibited organism may be assigned for the reasons stated in relation to that category —

(a) *Prohibited keeping*: if in the opinion of the Minister keeping the prohibited organism in the State or a part of the State should be prohibited except under the authority of a permit to keep —

(i) at a zoological park; or

(ii) at a scientific organisation approved by the Minister; or

(iii) for scientific, education or government operational purposes;

(b) *Restricted keeping*: if in the opinion of the Minister keeping the prohibited organism in the State or a part of the State should be restricted to keeping —

(i) under the authority of a permit; or

(ii) in an approved quarantine facility in accordance with the terms and conditions set out in the approval of the quarantine facility.

(3) The Minister may, by declaration published in accordance with subregulation (6), declare that a prohibited organism is assigned to a category designated under this regulation.

(4) The declaration must assign the prohibited organism to the category —

(a) for the whole of the State; or

(b) for one or more specified areas of the State.

(5) If a prohibited organism is not assigned to a keeping category designated under subregulation (2) by declaration under subregulation (3), the prohibited organism is to be taken to have been assigned for the whole of the State to the keeping category designated under subregulation (2)(a) (Prohibited keeping).

(6) Publication of the declaration is effected —

(a) by publishing it in the *Gazette*; or

(b) by publishing in the *Gazette* a notice stating that the declaration has been made and that particulars of the declaration can be obtained from the head office of the department and the department's electronic site.

(7) If the declaration is not published in the *Gazette* particulars of the declaration must be published on, or accessible through, the department's electronic site.

(8) A declaration published under this regulation may be amended or revoked by a subsequent declaration so published.

[Regulation 8 amended: Gazette 6 Sep 2019 p. 3186.]

8A. Movement, introduction and supply requirements for purposes of r. 16, 17 and 25

For the purposes of regulation 16(2), 17(2) or 25(2), the Director General may determine requirements in relation to the movement, introduction or supply of a potential carrier or class of potential carrier and publish those requirements on the department's electronic site.

[Regulation 8A inserted: Gazette 6 Sep 2019 p. 3186.]

8B. Organisms prescribed for s. 24

For the purposes of section 24(1)(c) and (3)(c), each organism that is a declared pest for the relevant area of the State is prescribed.

[Regulation 8B inserted: Gazette 6 Sep 2019 p. 3187.]

Part 2 — Dealing with declared pests and prescribed potential carriers

Division 1 — Keeping, breeding and cultivating

9. Keeping, breeding or cultivating declared pests

(1) Despite section 23(1)(a), a person may, in an area for which an organism is a declared pest, keep the declared pest if —

(a) the declared pest is kept as authorised by, and in accordance with the terms and conditions of, a permit to keep the declared pest held by that person; or

(b) the declared pest is kept in an approved quarantine facility in accordance with the terms and conditions set out in the approval of the quarantine facility; or

(c) the declared pest is assigned under regulation 7(2) to the exempt keeping category.

(2) Despite section 23(1)(a), a person may, in an area for which an organism is a declared pest, breed or cultivate the declared pest if the declared pest is bred or cultivated as authorised by, and in accordance with the terms and conditions of, a permit to breed or cultivate the declared pest held by that person.

10. Keeping, breeding or cultivating thing infected or infested with declared pest

Despite section 23(1)(b), a person may, in an area for which an organism is a declared pest, keep, breed or cultivate an animal, plant or other thing that is infected or infested with the declared pest if keeping, breeding or cultivating the animal, plant or other thing is not an offence under another provision of the Act or these regulations.

11. Keeping certain potential carriers

(1) The Director General may, by declaration published in accordance with subregulation (3), declare that a potential

carrier, or class of potential carrier, of a declared pest must not be kept without the authority of a permit in an area for which the declared pest is declared.

(2) The declaration must specify the potential carrier or class of potential carrier and the declared pest to which the declaration applies.

(3) Publication of the declaration is effected —

(a) by publishing it in the *Gazette*; or

(b) by publishing in the *Gazette* a notice stating that the declaration has been made and that particulars of the declaration can be obtained from the head office of the department and the department's electronic site.

(4) If the declaration is not published in the *Gazette* particulars of the declaration must be published on, or accessible through, the department's electronic site.

(5) A declaration published under this regulation may be amended or revoked by a subsequent declaration so published.

(6) A person must not keep a potential carrier to which a declaration under subregulation (1) applies unless the potential carrier is kept as authorised by, and in accordance with the terms and conditions of, a permit held by that person.

Penalty for an offence under subregulation (6): a fine of $5 000.

[Regulation 11 amended: Gazette 6 Sep 2019 p. 3187.]

12. Caring for declared pest or potential carrier kept under permit

(1) It is a condition of a permit to keep a declared pest that is a vertebrate animal that the permit holder must not put the declared pest into the care of another person (other than a veterinarian in the course of practising veterinary medicine as

defined in the *Veterinary Practice Act 2021* section 3) except as authorised under the permit.

Note for this subregulation:

A person who contravenes a condition of a permit to keep a declared pest commits an offence under section 25.

(2) It is a condition of a permit to keep a potential carrier that is a vertebrate animal that the permit holder must not put the potential carrier into the care of another person (other than a veterinarian in the course of practising veterinary medicine as defined in the *Veterinary Practice Act 2021* section 3) except as authorised under the permit.

Note for this subregulation:

A person who contravenes a condition of a permit to keep a potential carrier commits an offence under regulation 98.

[Regulation 12 amended: SL 2022/98 r. 16.]

13. Escape of declared pest or potential carrier kept under permit

(1) If a declared pest or potential carrier kept under the authority of a permit escapes from the place where it is required to be kept under the permit, the permit holder or the person who was in charge of the declared pest or potential carrier before it escaped must —

(a) report the escape to the Director General or an inspector as soon as practicable after becoming aware of the escape or as required in the permit conditions; and

(b) immediately after the recapture or destruction of the declared pest or potential carrier, report the recapture or destruction to the Director General or an inspector and provide evidence to the satisfaction of the Director General or the inspector of the recapture or destruction.

Penalty: a fine of $5 000.

(2) If a declared pest or potential carrier kept under the authority of a permit escapes from the place where it is required to be kept under the permit, the permit holder must make all reasonable efforts to recapture or destroy the declared pest or potential carrier.

Penalty: a fine of $5 000.

(3) Any costs incurred on behalf of the State as a result of efforts (whether successful or not) to recapture or destroy the declared pest or potential carrier and to deal with the declared pest or potential carrier after it is recaptured or destroyed, together with interest (at the rate at which interest is payable on a judgment debt of the Supreme Court) —

(a) are a debt due to the State by the permit holder; and

(b) may be sued for and recovered in a court of competent jurisdiction.

14. Seizure, treatment and destruction of declared pest or potential carrier kept under authorisation

(1) An inspector must not exercise a power under section 73 in respect of a declared pest that is kept as specified in regulation 9, or a potential carrier that is kept as authorised by, and in accordance with the terms and conditions of, a permit, unless the Director General has given a written direction to exercise the power.

(2) If a permit to keep a declared pest or potential carrier is suspended or revoked or expires, an inspector must not exercise a power under section 73 in respect of the declared pest or potential carrier unless —

(a) the Director General has given a written direction to exercise the power; or

(b) in the case of suspension or revocation of a permit — any right to review of the suspension or revocation has lapsed or is exhausted; or

(c) in the case of expiry of a permit — 30 days has elapsed since the expiry.

(3) If the approval of a quarantine facility is suspended or revoked or expires, an inspector must not exercise a power under section 73 in respect of a declared pest or potential carrier that, immediately before the suspension, revocation or expiry, was kept at the approved quarantine facility under the authority of the approval unless —

(a) the Director General has given a written direction to exercise the power; or

(b) in the case of suspension or revocation of an approval of a quarantine facility — any right to review of the suspension or revocation has lapsed or is exhausted; or

(c) in the case of expiry of an approval of a quarantine facility — 30 days has elapsed since the expiry.

15. Removal of enclosure when seizing organism or potential carrier

(1) If —

(a) an organism or potential carrier seized by an inspector under section 73 is in a portable cage or other enclosure when it is seized; and

(b) the inspector is of the opinion that the organism or potential carrier should be kept in the enclosure for safekeeping,

the inspector may, if the organism or potential carrier is removed under section 73(2)(b), remove the organism or potential carrier and the enclosure.

(2) The enclosure must be restored to the person from whom the organism or potential carrier was seized if the organism or potential carrier is destroyed, disposed of or restored to that person under section 73(2).

(3) Subregulation (2) does not apply to an enclosure that is seized under section 73.

Division 2 — Introduction and movement

16. Movement within DP area

(1) A person other than an inspector must not —

(a) move a declared pest for a DP area within that area; or

(b) move an animal, plant or other thing that is infected or infested with a declared pest for a DP area within that area,

unless —

(c) the action is reasonably required for the purpose of controlling the declared pest; or

(d) the action is taken as authorised by, and in accordance with the terms and conditions of, a permit held by that person.

Penalty for this subregulation: a fine of $10 000.

(2) A person other than an inspector must not, unless the person has been given an authorisation or direction to do so by an inspector, move a potential carrier of an organism that is a declared pest for a DP area within that area if the action is contrary to any requirements determined under regulation 8A relating to the movement of the potential carrier.

Penalty for this subregulation: a fine of $10 000.

[Regulation 16 amended: Gazette 6 Sep 2019 p. 3187.]

17. Introduction into DP area

(1) A person other than an inspector must not —

(a) bring a declared pest for a DP area into that area from another area of the State; or

(b) bring an animal, plant or other thing that is infected or infested with a declared pest for a DP area into that area from another area of the State,

unless the action is taken as authorised by, and in accordance with the terms and conditions of, a permit held by that person.

Note for this subregulation:

A person who contravenes this subregulation commits an offence under section 24(2).

(2) A person other than an inspector must not, unless the person has been given an authorisation or direction to do so by an inspector, bring a potential carrier of an organism that is a declared pest for a DP area into that area from another area of the State if the action is contrary to any requirements determined under regulation 8A relating to the introduction of the potential carrier.

Note for this subregulation:

A person who contravenes this subregulation commits an offence under section 24(2).

[Regulation 17 amended: Gazette 6 Sep 2019 p. 3187-8.]

*[**18.** Deleted: Gazette 6 Sep 2019 p. 3188.]*

19. Movement of bees, hive products and appliances

(1) In this regulation —

apiary site means the place occupied by an apiary;

beekeeping appliances means equipment used in the normal course of beekeeping;

SHB or ***small hive beetle*** means a beetle of the species *Aethina tumida*;

SHB free area means any area of the State other than the SHB infested area;

SHB infested area means the area of the State in respect of which SHB is a category 3 declared pest.

(2) This regulation applies to the movement of bees, hives, hive products or beekeeping appliances —

(a) as set out in Part 1 of the Table; and

(b) as set out in Part 2 of the Table, if a notice has been given under subregulation (4).

Table

Movement of bees, hives, hive products and beekeeping appliances
Part 1
From a place in the SHB infested area to a place in the SHB infested area.
From a place in the SHB infested area to a place in the SHB free area.
Part 2
From a place in the SHB free area to a place in the SHB free area.

(3) A person must not —

(a) move any bees, hives, hive products or beekeeping appliances; or

(b) cause to be moved any bees, hives, hive products or beekeeping appliances,

unless —

(c) the movement is from a place in an apiary site to another place in that apiary site; or

(d) the action is taken as authorised by, and in accordance with the terms and conditions of, a permit held by that person.

Penalty: a fine of $10 000.

(4) If the Director General gives a beekeeper a notice under this subregulation, then subregulation (3) applies, in accordance with the notice, to the beekeeper in respect of the movement of bees, hives, hive products and beekeeping appliances, as specified in the notice, from a place in the SHB free area to another place in the SHB free area.

(5) A notice referred to in subregulation (4) —

(a) is to specify that subregulation (3) is to apply in respect of —

(i) all hives that the beekeeper owns, or has the charge, care or possession of, and all bees, hive products and beekeeping appliances associated with those hives; or

(ii) hives that the beekeeper owns, or has the charge, care or possession of, of a kind specified or described in the notice, and all bees, hive products and beekeeping appliances associated with those hives;

and

(b) is to specify the time (which must be after the notice is given) from which subregulation (3) is to apply in respect of the beekeeper.

(6) A person must not move, or cause to be moved, from an apiary site to another apiary site bees, hives or beekeeping appliances unless —

(a) the thing being moved is covered to the extent necessary to ensure that it is not accessible to bees, other than bees that are being moved; and

(b) if the thing being moved is a hive containing live bees, the hive entrance is closed, other than to the extent required for minimum ventilation.

Penalty: a fine of $10 000.

(7) Any person who, in moving, or causing to be moved, a hive from an apiary site to another apiary site, dismantles the hive, wholly or partly, must ensure that there is no interchange of hive parts between hives when the hive is reassembled.

Penalty: a fine of $10 000.

(8) If there is a conflict or inconsistency between —

(a) this regulation; and

(b) a permit under which a thing is being moved,

then this regulation does not apply to the extent of the conflict or inconsistency.

[Regulation 19 amended: Gazette 6 Sep 2019 p. 3188.]

[20, 21. *Deleted: Gazette 6 Sep 2019 p. 3188.]*

Division 3 — Other dealing

22. Releasing declared pests

Despite section 23(1)(c), a person may, in an area for which an organism is a declared pest, release into the environment the declared pest, or an animal, plant or other thing that is infected or infested with the declared pest, if the declared pest, or animal, plant or other thing infected or infested with the declared pest, is released as authorised by, and in accordance with the terms and conditions of, a permit held by that person.

23. Abandoning or releasing animals that become declared pests

A person must not, without lawful excuse —

(a) abandon an animal; or

(b) permit, or fail to take reasonable precautions to prevent, the being at large of an animal,

in an area where that animal becomes a declared pest by reason of being at large.

Penalty: a fine of $20 000.

24. Infection or infestation

(1) Despite section 23(1)(d), a person may, in an area for which an organism is a declared pest, intentionally infect or infest, or expose to infection or infestation, a plant, animal or other thing with the declared pest if the action is taken as authorised by, and in accordance with the terms and conditions of, a permit held by that person.

(2) Without limiting section 23(1)(d) and subject to subregulation (3), a person must not, in an area for which an organism is a declared pest, inoculate or cause to be inoculated, a vertebrate animal with a product containing the viable declared pest.

Penalty: a fine of $10 000.

(3) Despite section 23(1)(d) and subregulation (2), a person may, in an area for which an organism is a declared pest, inoculate or cause to be inoculated, a vertebrate animal with a product containing the viable declared pest if —

(a) the product is used in accordance with the *Veterinary Chemical Control Regulations 2006*; or

(b) the action is taken as authorised by, and in accordance with the terms and conditions of, a permit held by that person.

25. Supply

(1) A person other than an inspector must not —

(a) supply to a person in a DP area a declared pest for that area; or

(b) supply to a person in a DP area an animal, plant or other thing that is infected or infested with a declared pest for that area,

unless the action is taken as authorised by, and in accordance with the terms and conditions of, a permit held by the person supplying.

Note for this subregulation:

A person who contravenes this subregulation commits an offence under section 24(4).

(2) A person other than an inspector must not, unless the person has been given an authorisation or direction to do so by an inspector, supply to a person in a DP area a potential carrier of an organism that is a declared pest for the area if the action is contrary to any requirements determined under regulation 8A relating to the supply of the potential carrier.

Note for this subregulation:

A person who contravenes this subregulation commits an offence under section 24(4).

[Regulation 25 amended: Gazette 6 Sep 2019 p. 3188-9.]

26. Advertising supply of declared pests

(1) In this regulation —

advertisement means any form of advertising in a publication, whether visual or audible and whether in the form of written or spoken words.

(2) A person must not publish or cause to be published —

(a) an advertisement that a declared pest is available for supply; or

(b) an advertisement promoting the supply of a declared pest,

if —

(c) the supply of the declared pest in any part of the area in which the advertisement is published would be contrary to regulation 25; and

(d) the advertisement does not include at least one of the following statements —

(i) the declared pest is not available for supply in any area in which supply would be contrary to regulation 25;

(ii) the department should be contacted for information on restrictions and requirements that may apply to supply of the declared pest.

Penalty: a fine of $5 000.

(3) A printer, publisher or proprietor of a newspaper, a licensee of a commercial broadcasting or television station, an exhibitor of a film, or a person acting with the authority of any of them, is not guilty of an offence under subregulation (2) unless the printer, publisher, proprietor, licensee or exhibitor —

(a) was warned by the Director General that publication of the advertisement, or of an advertisement substantially to the same effect, would be a contravention of subregulation (2); and

(b) after receipt of the warning, published or caused to be published, the advertisement.

(4) The Director General may, by written notice given to a person who has published an advertisement in contravention of subregulation (2) require the person to do either or both of the following within the time specified in the notice —

(a) to discontinue the publication of the advertisement;

(b) to publish in a newspaper circulated throughout the State a notice, in an approved form, advising the public that

the relevant advertisement was published in contravention of subregulation (2).

(5) A person must comply with a requirement in a notice given to the person under subregulation (4).

Penalty: a fine of $5 000.

(6) The Director General may by further written notice amend or revoke a notice given under subregulation (4).

Part 3 — Control of declared pests

Division 1 — General

27. Control measures: treatment (s. 30)

(1) For the purposes of section 30, the following control measures are prescribed to control declared pests —

(a) biological control;

(b) burning;

(c) capture and relocation;

(d) chemical treatment;

(e) cleaning and wash-down at an approved wash-down facility;

(f) cold treatment;

(g) cultivation;

(h) dessication;

(i) fumigation;

(j) immersion;

(k) irradiation;

(l) isolation;

(m) mechanical control such as uprooting, grubbing, chipping, cutting, mowing or pruning;

(n) mustering;

(o) poisoning;

(p) removal;

(q) screening or sieving;

(r) shearing;

(s) shooting;

(t) solarisation;

(u) steam or heat treatment;

(v) trapping;

(w) vaccinating;

(x) any approved treatment.

(2) If a treatment is approved for the purposes of subregulation (1)(x) the Director General must publish in the *Gazette* —

(a) a notice setting out the particulars of the approval; or

(b) a notice stating that the treatment has been approved and that particulars of the approval may be obtained from the head office of the department and the department's electronic site.

(3) In relation to a category 1 declared pest or a category 2 declared pest, a person referred to in section 30(2) or (3) must take such of the control measures specified in subregulation (1) as are reasonable and necessary to destroy, prevent or eradicate the declared pest.

Note for this subregulation:

A person who contravenes this subregulation commits an offence under section 30(2) or (3).

(4) In relation to a category 3 declared pest, a person referred to in section 30(2) or (3) must take such of the control measures specified in subregulation (1) as are reasonable and necessary to —

(a) alleviate the harmful impact of the declared pest in the area for which it is declared; or

(b) reduce the number or distribution of the declared pest in the area for which it is declared; or

(c) prevent or contain the spread of the declared pest in the area for which it is declared.

Note for this subregulation:

A person who contravenes this subregulation commits an offence under section 30(2) or (3).

[Regulation 27 amended: Gazette 6 Sep 2019 p. 3189.]

28. Control measures: isolation of infected or infested organism (s. 30)

(1) The owner or other person in control of an organism or thing that is infected or infested with —

(a) a category 1 or category 2 declared pest for the area in which the organism or thing is present; or

(b) a prohibited organism,

must take reasonable steps to prevent the organism or thing from coming into contact with any other organism or thing that is likely to become infected or infested with the declared pest.

Note for this subregulation:

A person who contravenes this subregulation commits an offence under section 30(2).

(2) The owner or other person in control of a vertebrate animal infected or infested with a category 3 declared pest for the area in which the animal is present must take reasonable steps to prevent the animal from coming into contact with another animal that is likely to become infected or infested with the declared pest and belongs to another person.

Note for this subregulation:

A person who contravenes this subregulation commits an offence under section 30(2).

29. Notification of presence of declared pest

(1) An owner or occupier of land in an area for which an organism is a declared pest must make all reasonable efforts to ensure that any person conducting an activity on the land is aware that measures are required under section 30(3) to be taken to control the declared pest.

Penalty: a fine of $5 000.

(2) It is sufficient compliance with subregulation (1) if the owner or occupier erects and maintains biosecurity signs in accordance with the directions of an inspector under regulation 30.

30. Biosecurity signs

(1) An inspector may —

(a) give an owner or occupier of land in an area for which an organism is a declared pest a written direction to erect and maintain in accordance with subregulation (3) signs about the measures that are required under section 30(3) to be taken to control the declared pest; or

(b) erect and maintain, on any land in an area for which an organism is a declared pest, signs about the measures that are required under section 30(3) to be taken to control the declared pest.

Note for this subregulation:

A person who, without lawful excuse, does not comply with a lawful requirement of an inspector commits an offence under section 92.

(2) The direction must specify the following —

(a) the content of the signs;

(b) the size and construction of the signs;

(c) the places where the signs are to be erected;

(d) the time within which the signs are to be erected;

(e) the period for which the signs are to be maintained.

(3) The signs must —

(a) be clear and legible; and

(b) indicate that prescribed control measures are required to be taken in relation to a declared pest on the land; and

(c) specify the declared pest; and

(d) include such contact details and other information as are specified in the direction to erect the signs.

(4) A person must not, without lawful authority, remove, obscure or otherwise interfere with a sign erected under this regulation.

Penalty for an offence under subregulation (4): a fine of $10 000.

31. Identification of infected or infested potential carriers

An inspector who knows or reasonably suspects that a prescribed potential carrier is infected or infested with a declared pest for any area may direct the owner of the prescribed potential carrier to mark or brand the prescribed potential carrier in an approved manner that is specified in the direction.

Note for this regulation:

A person who, without lawful excuse, does not comply with a lawful requirement of an inspector commits an offence under section 92.

32. Controls on gathering of vertebrate animals

(1) If the Director General considers it necessary to do so to control a declared pest, the Director General may, by notice published in the *Gazette* —

(a) prohibit the holding of an exhibition or sale of vertebrate animals or any other gathering of vertebrate animals; or

(b) impose conditions on the holding of an exhibition or sale of vertebrate animals or any other gathering of vertebrate animals.

(2) In a notice published under subregulation (1) the Director General must specify the following —

(a) the persons or class of persons to whom the notice applies;

(b) the vertebrate animals or class of vertebrate animals to which the notice applies;

(c) the area in which the notice applies;

(d) the period during which the notice applies.

(3) A notice published under subregulation (1) may be amended or revoked by a subsequent notice published in the *Gazette*.

(4) A person must not hold, or participate in, an exhibition or sale of vertebrate animals, or cause a vertebrate animal to gather

with other vertebrate animals, in contravention of a prohibition or condition imposed under subregulation (1).

Penalty for an offence under subregulation (4): a fine of $20 000.

33. Restrictions on testing for declared pests

(1) A person must not make the results of any test of an organism or other thing for the purpose of determining the presence or absence of, or exposure to, a category 1 or category 2 declared pest for any area or a prohibited organism publicly available unless —

(a) the person is an inspector; or

(b) the test is authorised by, and carried out in accordance with the terms and conditions of, a permit held by that person or the principal or employer of that person; or

(c) the test is authorised by the Director General.

Penalty: a fine of $20 000.

(2) If the Director General authorises a test for the purposes of subregulation (1)(c), the Director General must publish in the *Gazette* —

(a) the authorisation; or

(b) a notice stating that the authorisation has been given and that particulars of the authorisation may be obtained from the head office of the department and the department's electronic site.

[Regulation 33 amended: Gazette 6 Sep 2019 p. 3189.]

34. Removal of stock from abattoir or feedlot

(1) In this regulation —

abattoir includes a pet food processing plant;

feedlot means an area (which may be subdivided) where stock from more than one source are held and fed until delivered for sale, slaughter or export;

lairage means the area within an abattoir where stock are held immediately prior to slaughter.

(2) A person must not move stock from an abattoir, or from the lairage or holding yard of an abattoir, to another place, unless the stock is moved as authorised by, and in accordance with the terms and conditions of, a permit held by that person.

Penalty: a fine of $10 000.

(3) A person must not move stock from a feedlot where stock is held for the purposes of export unless —

(a) the animal is moved directly to —

(i) a wharf for the purpose of live export; or

(ii) an abattoir for slaughter; or

(iii) another feedlot where stock is held for the purposes of export;

or

(b) the animal is moved —

(i) as authorised by, and in accordance with the terms and conditions of, a permit held by that person; or

(ii) in accordance with a direction of an inspector.

Penalty: a fine of $10 000.

(4) The Director General may, by written notice, exempt a horse, or class of horses, used for droving from the application of subregulation (2) or (3).

(5) The Director General may, by further written notice, amend or revoke a notice given under subregulation (4).

(6) If an inspector is of the opinion that there is a likelihood of spread of declared pest from a feedlot, the inspector may direct a person not to move stock from the feedlot unless —

(a) the animal is moved directly to —

(i) a wharf for the purpose of live export; or

(ii) an abattoir for slaughter; or

(iii) another feedlot where stock is held for the purposes of export;

or

(b) the animal is moved as authorised by, and in accordance with the terms and conditions of, a permit held by that person.

Note for this regulation:

A person who, without lawful excuse, does not comply with a lawful requirement of an inspector commits an offence under section 92.

35. Biological control agents of declared pests

(1) The Director General may, by notice published in accordance with subregulation (2) —

(a) declare any natural enemy, antagonist or competitor, or other organism used for pest control, of a declared pest to be a biological control agent of the declared pest; and

(b) prohibit the destruction, injuring and capturing of that biological control agent in any area specified in the notice.

(2) Publication of the notice is effected —

(a) by publishing it in the *Gazette*; or

(b) by publishing in the *Gazette* a notice stating that the declaration has been made and that particulars of the declaration may be obtained from the head office of the department and the department's electronic site.

(3) If the notice is not published in the *Gazette* particulars of the notice must be published on, or accessible through, the department's electronic site.

(4) A notice published under this regulation may be amended or revoked by a subsequent notice published in the *Gazette*.

(5) A person must not, without lawful excuse —

(a) destroy, injure or capture any thing contrary to a notice published under this regulation; or

(b) possess any thing that has been captured contrary to a notice published under this regulation.

Penalty: a fine of $10 000.

[Regulation 35 amended: Gazette 6 Sep 2019 p. 3189.]

36. Notice to carry out search or surveillance of place or thing

(1) If an inspector reasonably suspects that a declared pest is present on land or a thing in a DP area for the declared pest, the inspector may give either or both —

(a) the owner of the land or thing; or

(b) the occupier of the land,

a notice in writing directing that person to conduct a search or surveillance of the land or thing for the specified declared pest.

(2) The notice —

(a) must specify the declared pest in respect of which the notice applies; and

(b) may direct the person to whom the notice is given to make a record of the search or surveillance in the manner and form specified in the notice; and

(c) must specify the period within which the search or surveillance must be conducted; and

(d) must require the person to whom the notice is given to conduct the search or surveillance in accordance with a search or surveillance protocol set out in the notice; and

(e) must specify that failure to comply with the notice could result in a fine, the Director General taking remedial action under regulation 133, or both.

(3) The notice may be amended or revoked by a subsequent notice given under subregulation (1).

(4) An owner or occupier must keep a record made pursuant to a direction under this regulation for a period of 5 years after it is made by the owner or occupier.

Penalty: a fine of $5 000.

(5) An owner or occupier of land, or an owner of a thing, who has been given a notice under subregulation (1) must —

(a) commence to comply with the direction contained in the notice by the commencement day specified in the notice; and

(b) fully comply with the direction contained in the notice not later than the completion day specified in the notice; and

(c) make a record in accordance with a direction in the notice.

Penalty: a fine of $5 000.

(6) Where the owner and the occupier of land are both given a notice under subregulation (1) it is a defence in any proceeding against either of them under subregulation (5)(a), (b) or (c) for the accused person to show that the other has complied with the provisions of that paragraph.

37. Exemptions

(1) If a person knows, or believes on reasonable grounds, that the Director General or an inspector has already received a report under section 26(1) as to the presence or suspected presence of a declared pest, that person is not required to report under that section as to that same presence or suspected presence.

(2) The Director General may, in relation to the presence or suspected presence of a declared pest, by notice exempt a person or class of persons from the requirement to report under section 26(1) if the declared pest is being controlled in accordance with section 30 or in accordance with a pest control notice.

(3) A notice referred to in subregulation (2) must —

(a) if the notice applies to a class of persons —

(i) be published in the *Gazette*; or

(ii) be published on, or accessible through, the department's electronic site;

or

(b) otherwise — be given in writing to the person to whom it applies.

(4) The Director General may by subsequent notice published or given in the same manner amend or revoke a notice referred to in subregulation (2).

[Regulation 37 amended: Gazette 6 Sep 2019 p. 3189.]

38. Direction as to testing and treatment

(1) An inspector may direct a person to test an organism or potential carrier for the presence of declared pests or unlisted organisms at a place and in a manner specified in the direction.

(2) An inspector may direct a person to treat an organism or potential carrier for the presence of declared pests or unlisted organisms at a place and in a manner specified in the direction.

[(3) deleted]

(4) A direction may be given under subregulation (2) whether or not the organism is infected or infested with a declared pest or an unlisted organism.

Note for this regulation:

A person who, without lawful excuse, does not comply with a lawful requirement of an inspector commits an offence under section 92.

[Regulation 38 amended: Gazette 6 Sep 2019 p. 3189.]

39. Statement as to testing or treatment

(1) A direction given to a person by an inspector in relation to the testing or treatment of an organism or potential carrier may

include a requirement that the person provide to the inspector, within a reasonable time specified in the direction —

(a) any information specified in the direction as to the testing or treatment of the organism or potential carrier; and

(b) a written and signed statement as to the matters specified in the direction.

(2) An inspector may direct a person given a pest exclusion notice, a pest control notice or a pest keeping notice that requires the testing or treatment of an organism or potential carrier to provide to the inspector, within a reasonable time specified in the direction —

(a) any information specified by the inspector as to the treatment of the organism or potential carrier; and

(b) a written and signed statement as to the matters specified in the direction.

Note for this regulation:

A person who, without lawful excuse, does not comply with a lawful requirement of an inspector commits an offence under section 92.

39A. Removal of organism or potential carrier from inspection point or other place

(1) Subregulation (2) applies if an organism or potential carrier is —

(a) presented for inspection at an inspection point under regulation 79(5) or taken to another place in accordance with a written direction referred to in regulation 79(3)(a)(ii); or

(b) taken or removed to, or kept or left at, an inspection point, quarantine facility or any other place under a direction of an inspector.

(2) If this subregulation applies, a person must not remove the organism or potential carrier from the inspection point,

quarantine facility or other place, unless the person has been given an authorisation or direction to do so by an inspector.

Penalty for this subregulation: a fine of $20 000.

[Regulation 39A inserted: Gazette 6 Sep 2019 p. 3190.]

40. Interference with declared pest control device: offence

(1) In this regulation —

pest control device means a trap, cage, poison, lure, device, matter or other thing which is used for the purpose of controlling a declared pest.

(2) A person must not destroy, injure, remove or interfere with a pest control device lawfully placed upon land by another person for the purpose of controlling a declared pest.

Penalty: a fine of $10 000.

(3) It is a defence to a charge under subregulation (2) to show that the accused person was acting with lawful authority.

(4) If an inspector is of the opinion that a person is contravening subregulation (2), the inspector may take reasonable measures to ensure that the contravention does not continue.

(5) Without limiting subregulation (4), an inspector who finds a person contravening subregulation (2) may direct that person to do one or more of the following —

(a) to stop any action specified in the direction that is in contravention of subregulation (2);

(b) to remove from the land where the pest control device is placed any thing specified in the direction that is being used or is otherwise involved in the contravention by that person of subregulation (2).

Note for this regulation:

A person who, without lawful excuse, does not comply with a lawful requirement of an inspector commits an offence under section 92.

Division 2 — Poisons and traps

41. Term used: trap

In this Division, unless the contrary intention appears —

trap means any device (other than a cage trap) used for the purpose of catching declared pest animals.

42. Use of poison and traps

Subject to this Division, the *Health (Miscellaneous Provisions) Act 1911*, the *Medicines and Poisons Act 2014* and the *Animal Welfare Act 2002*, it is lawful —

(a) for inspectors to use baits, poison and traps in an area for which an animal is a declared pest animal for the purpose of controlling that animal; and

(b) for the owners and occupiers of land in an area for which an animal is a declared pest animal, and persons acting with the authority of the owners or occupiers, to use baits, poison and traps for the purpose of controlling that animal.

[Regulation 42 amended: Gazette 10 Jan 2017 p. 170; 17 Jan 2017 p. 405.]

43. Protection of human health and life

(1) In this regulation —

take, in relation to an animal, means to trap, snare, shoot or catch that animal by any means other than poisoning.

(2) The object of this regulation is to protect human health and life from danger or detriment likely to result from the handling or consumption of poisoned animals.

(3) If an inspector proposes to use poison or other means likely to endanger or be detrimental to human health or life, for the

control of a declared pest in any area, the Director General must publish notice of the proposal —

(a) in the *Gazette*; and

(b) in a newspaper circulating in the area; and

(c) in any other manner the Director General considers necessary in order to notify the public of the proposal.

(4) In a notice published under subregulation (3) the Director General must state —

(a) the proposal; and

(b) the area to which the proposal relates; and

(c) notification —

(i) that the taking of animals of a class specified in the notice is prohibited absolutely until such time as a further notice revoking the prohibition is published by the Director General; or

(ii) that the taking, for human consumption, of animals of a class specified in the notice is prohibited until such time as a further notice revoking the prohibition is published by the Director General,

whichever the Director General considers appropriate in the circumstances; and

(d) notification that the taking of animals of a class specified in the notice in breach of the prohibition is an offence under subregulation (6); and

(e) a warning that if animals of a class specified in the notice are taken they are likely to endanger or be detrimental to human health or life if handled or consumed.

(5) If the Director General is of the opinion that the prohibition mentioned in a notice published under subregulation (3) may without danger or detriment to human health or life be revoked, the Director General must publish in the *Gazette* and in a

newspaper circulating in the area concerned a further notice revoking the prohibition.

(6) A person must not take an animal of a class specified in a notice published under subregulation (3) in breach of the prohibition mentioned in that notice.

Penalty for an offence under subregulation (6): a fine of $20 000.

44. Inspector must not use bait, poison or trap without notice

(1) Subject to subregulation (2), an inspector must not use baits, poison or traps for the control of a declared pest animal on or in relation to any land unless prior notice of the intention to use the baits, poison or traps has been given to —

(a) the Director General; and

(b) the actual occupant or, if there is no actual occupant, the owner, of the land.

(2) An inspector may, if the inspector considers that there is an urgent need to use the bait, poison or trap for the control of a declared pest animal, use the bait, poison or trap without giving prior notice under subregulation (1).

(3) If prior notice is not given under subregulation (1), the inspector must give notice of the use as soon as practicable after using the bait, poison or trap to —

(a) the Director General; and

(b) the actual occupant or, if there is no actual occupant, the owner, of the land.

(4) If the Director General is given notice under subregulation (3) in respect of the use of a poison or bait likely to endanger or be detrimental to human health or life, the Director General must comply with regulation 43 as if the notice were notice of a proposal to use the poison or bait.

45. Trapping declared vertebrate pest animals

(1) In this regulation —

built-up area means an area which is built up with structures used for business, industry or dwelling-houses at intervals of less than 100 metres for a distance of 500 metres or more;

special rural zone means land zoned as a special rural zone under —

(a) a local planning scheme as defined in the *Planning and Development Act 2005* section 4(1); or

(b) the Swan Valley Planning Scheme in force under the *Swan Valley Planning Act 2020*.

(2) A person other than an inspector must not set a trap in a special rural zone or built-up area for the purpose of catching a declared pest animal that is a vertebrate animal unless that person has a permit to do so and the trap is set in accordance with the terms and conditions set out in the permit.

Penalty: a fine of $10 000.

(3) Any person who sets a trap must —

(a) ensure that all animals caught in the trap are disposed of in a humane manner; and

(b) inspect the trap at reasonable intervals of time to ensure that animals do not remain in the trap longer than is unavoidable; and

(c) exercise reasonable care to ensure that animals that are not declared animals are not caught in the trap; and

(d) produce a copy of any permit to set the trap when requested to do so by an inspector.

Penalty: a fine of $10 000.

[Regulation 45 amended: SL 2021/129 r. 4.]

Division 2A — Use of rabbit haemorrhagic disease virus

[Heading inserted: Gazette 3 Feb 2017 p. 1111.]

45A. Terms used

In this Division —

approved training course means a training course in the safe use of restricted chemical products containing a rabbit haemorrhagic disease virus that is —

(a) conducted by the department; or

(b) approved under regulation 45B;

restricted chemical product has the meaning given in the Agvet Code of Western Australia.

[Regulation 45A inserted: Gazette 3 Feb 2017 p. 1111.]

45B. Approval of training courses

(1) The Director General may approve a training course in the use of restricted chemical products containing a rabbit haemorrhagic disease virus if the Director General is satisfied that the course provides appropriate training in the safe use of the products.

(2) The approval is to be given in writing and published on the department's electronic site.

[Regulation 45B inserted: Gazette 3 Feb 2017 p. 1111; amended: 6 Sep 2019 p. 3190.]

45C. Authorisation to use rabbit haemorrhagic disease virus

A person is authorised to use a restricted chemical product containing a rabbit haemorrhagic disease virus for the biological control of rabbits if the person —

(a) has completed an approved training course; and

(b) uses the restricted chemical product in a manner that is consistent with the product's directions for use.

[Regulation 45C inserted: Gazette 3 Feb 2017 p. 1112.]

Division 3 — Barrier fences

46. Terms used

In this Division —

associated infrastructure, in relation to a barrier fence, includes water tanks, sheds, signs and gates;

barrier fence means a substantial fence under the control of the Director General which is used to impede the movement of animals that are declared pests;

barrier fence reserve means land reserved for the purpose of a barrier fence and for the protection and maintenance of the fence.

47. Barrier fences

(1) The Director General may on any land —

(a) erect, improve, alter, maintain, repair or renew a barrier fence and associated infrastructure; or

(b) dismantle or remove a barrier fence and associated infrastructure.

(2) A barrier fence and associated infrastructure erected under subregulation (1) are the property of the State.

(3) The Director General may sell or otherwise dispose of a barrier fence dismantled or removed under subregulation (1).

(4) For the purposes of subregulation (1) officers of the department may, in addition to the powers of entry provided under the Act —

(a) cut timber and conduct earthworks; and

(b) clear the land on either side of the barrier fence.

(5) Nothing in subregulation (4) empowers —

(a) the destruction of fruit trees, trees used for shade, windbreaks or ornament, or trees used to prevent erosion or degradation of the soil; or

(b) the removal of buildings.

48. Offence to use barrier fence without consent

A person must not —

(a) make use of; or

(b) interfere with; or

(c) attach any vertebrate animal trap, diversionary wing fence, gate, wire netting or other attachment to,

a barrier fence unless the person has obtained the prior written consent of the Director General.

Penalty: a fine of $10 000.

49. Offence to damage or misuse barrier fence

A person must not —

(a) destroy or damage any portion of —

(i) a barrier fence; or

(ii) a gate or motor traffic pass in a barrier fence; or

(iii) other associated infrastructure;

or

(b) leave a gate in a barrier fence open after opening or passing through that gate; or

(c) carry, drive or pass a live vertebrate animal through, under or over a barrier fence.

Penalty: a fine of $10 000.

50. Offence to drive or keep vertebrate animals near barrier fence

(1) A person must not, without the prior written consent of the Director General —

(a) drive, or cause to be driven, any vertebrate animals along or over a barrier fence reserve; or

(b) confine, encamp or keep, or cause to be confined, encamped or kept, vertebrate animals against or in proximity to a barrier fence.

Penalty: a fine of $10 000.

(2) It is a defence to an offence under subregulation (1) if it is shown that the barrier fence was being used in accordance with the Act by an owner or occupier of land contiguous to the barrier fence reserve to fence that land and the vertebrate animals are confined within the land so fenced.

51. Offence to travel along barrier fence

A person must not enter, remain on or travel along a barrier fence reserve unless the person has obtained the prior written consent of the Director General or of the person or body in whom the care, control and maintenance of the reserve is vested.

Penalty: a fine of $10 000.

Division 4 — Payment for detection, removal or destruction of declared pests

52. Director General may fix rates of payment for detection, removal or destruction of declared pests

(1) The Director General may, by notice published in the *Gazette*, fix a rate of payment for the detection, removal or destruction in a specified area during a specified period of —

(a) a specified declared pest; or

(b) a potential carrier that is infected or infested, or suspected to be infected or infested, with a specified declared pest.

(2) In subregulation (1) —

specified means specified in the notice.

(3) A notice published under subregulation (1) may be amended or revoked by subsequent notice published in the *Gazette*.

53. Claim for payment

(1) A person may lodge a claim with the Director General for payment for the detection, removal or destruction of a declared pest or potential carrier by that person if a rate of payment is fixed under regulation 52 for the detection, removal or destruction.

(2) The claim must be accompanied by evidence in a form approved by the Director General that proves that the declared pest or potential carrier has been detected, removed or destroyed.

(3) If the Director General is satisfied with the evidence of detection, removal or destruction of a declared pest or potential carrier, and that a rate of payment is fixed under regulation 52 for that detection, removal or destruction, the Director General is to pay the claimant the appropriate payment.

54. Offences

(1) In this regulation —

claim means a claim for a payment under regulation 53.

(2) A person must not —

(a) make a false claim; or

(b) represent in a claim that a declared pest or potential carrier was detected, removed or destroyed in an area other than the area in which the declared pest or potential carrier was detected, removed or destroyed.

Penalty: a fine of $10 000.

Part 4 — Quarantine of places

Division 1 — General

55. Terms used

(1) In this Part —

movement notice means a notice given under regulation 66(3);

organism of concern —

(a) in relation to a quarantine notice, means the organism in respect of which the notice is given; and

(b) in relation to a pest control notice, means the declared pest in respect of which the notice is given;

quarantine notice means a notice given under regulation 56 or taken to be given under regulation 60(4);

quarantined place —

(a) in relation to a quarantine notice, means the place to which the quarantine notice applies; and

(b) in relation to a pest control notice, means any place specified in the notice as a quarantined place under the notice.

(2) A reference in this Part to an organism of concern present in an area or on or in the vicinity of land includes a reference to an organism of concern carried by a potential carrier present in the area or on or in the vicinity of the land.

Division 2 — Quarantine notices

56. Quarantine notice

(1) An inspector may give a quarantine notice in respect of an organism to a person mentioned in subregulation (2) if the inspector has reasonable grounds for believing that the organism is or may be any of the following —

(a) a declared pest;

(b) an organism that has or may have an adverse effect on any of the following —

(i) another organism;

(ii) human beings;

(iii) the environment, or part of the environment;

(iv) agricultural activities, fishing or pearling activities, or related commercial activities;

(c) an organism that may have an adverse effect on any thing mentioned in paragraph (b) if it were present in an area, or if it were present in an area in greater numbers or to a greater extent.

(2) The inspector may give the quarantine notice to any or all of the following persons —

(a) an owner or occupier of land or a person who is conducting an activity on land if —

(i) an organism mentioned in subregulation (1) has been found on or in the vicinity of the land; or

(ii) there are reasonable grounds for suspecting that the organism may be on or in the vicinity of the land;

(b) any other person if —

(i) an organism mentioned in subregulation (1) has been found on or in the vicinity of a place owned or occupied by, or under the control of, that person; or

(ii) there are reasonable grounds for suspecting that the organism may be on or in the vicinity of a place owned or occupied by, or under the control of, that person.

(3) The quarantine notice —

(a) must be in writing; and

(b) must specify the place to which it applies; and

(c) if possible, must identify the organism that is, or is suspected to be, on or in the vicinity of the quarantined place; and

(d) if it is not possible to identify the organism, must specify why there are reasonable grounds for suspecting that the organism is on or in the vicinity of the quarantined place; and

(e) may require compliance with a code of practice specified in the notice, or the taking of measures set out in the notice or a management plan specified in the notice, for the purpose of controlling the organism; and

(f) must specify the period within which, or for the duration of which, the notice must be complied with; and

(g) must specify that failure to comply with the notice could result in a fine, the Director General taking remedial action under regulation 133, or both.

(4) The Director General may give a copy of a quarantine notice, for information —

(a) to another person if —

(i) that person is the owner or occupier of land that is in close proximity to the place in respect of which the notice is given; or

(ii) there are reasonable grounds for believing the person's agricultural activities or land would be adversely affected if the organism of concern were to infect or infest the person's land or any plants or animals on the land, or the premises or any other thing owned or occupied by, or under the control or management of, the person;

and

(b) to a management committee established by regulations made under section 141(1)(b) if the Director General is of the opinion that the information is relevant to the functions of the management committee.

57. Compliance with quarantine notice

A person to whom a quarantine notice is given must comply with the notice.

Penalty: a fine of $20 000.

58. Other persons bound by quarantine notice

(1) A person to whom a quarantine notice is given must —

(a) give a copy of the quarantine notice to any person who enters the quarantined place at the invitation of the person to whom the notice is given; or

(b) advise any person who enters the quarantined place at the invitation of the person to whom the notice is given of the notice and the requirements under the notice.

Penalty: a fine of $20 000.

(2) A person given a copy of a quarantine notice or advice under subregulation (1) must comply with any provisions of the code of practice specified in the notice, or take the measures set out in the notice or a management plan specified in the notice, to the extent that those provisions or measures are specified in the code or notice as provisions or measures that apply to any person on the quarantined place.

Penalty: a fine of $20 000.

59. Amendment or revocation of quarantine notice

(1) An inspector may, by written notice (an ***amendment notice***) given to the person to whom a quarantine notice has been given, amend the quarantine notice.

(2) The amendment notice must state that the person to whom the notice is given may make written representations to the Director General about the amendment.

(3) A person to whom an amendment notice is given may make written representations to the Director General about the amendment, and the Director General must consider the representations.

(4) An inspector may, by written notice given to a person who has been given a quarantine notice, revoke the quarantine notice.

60. Quarantine area

(1) The Director General may, by notice (a ***quarantine area notice***) published in accordance with subregulation (2), declare an area in the State in or in the vicinity of which —

(a) an organism of a kind referred to in regulation 56(1) is present; or

(b) there are reasonable grounds for the Director General to suspect that an organism of that kind may be present,

to constitute a quarantine area.

(2) The quarantine area notice must be published —

(a) in the *Gazette*; and

(b) in a newspaper circulating generally in the area where the land to which the notice relates is situated; and

(c) on the department's electronic site.

(3) The quarantine area notice —

(a) must specify the area of the State that constitutes the quarantine area; and

(b) if possible, must identify the organism that is, or is suspected to be, in or in the vicinity of the quarantine area; and

(c) if it is not possible to identify the organism, must specify why there are reasonable grounds for suspecting that the organism is or may be in or in the vicinity of the quarantine area; and

(d) may require compliance with a code of practice specified in the quarantine area notice, or the taking of measures set out in the quarantine area notice or a management plan, for the purpose of controlling the organism of concern; and

(e) may include directions of the kinds referred to in regulations 65 and 66(2); and

(f) must specify the period within which, or for the duration of which, the quarantine area is constituted; and

(g) must specify that —

(i) each person who is the owner or occupier of land in the quarantine area is taken to have been given a quarantine notice that applies to that land in the terms of the quarantine area notice; and

(ii) failure to comply with the quarantine notice could result in a fine, the Director General taking remedial action under regulation 133, or both.

(4) When a quarantine area notice is published under subregulation (2)(a) and (b), each person who is the owner or occupier of land in the quarantine area constituted under the notice is taken to have been given a quarantine notice that applies to that land in the terms of the quarantine area notice.

[Regulation 60 amended: Gazette 6 Sep 2019 p. 3190.]

61. Amendment or revocation of quarantine area notice

(1) The Director General may, by notice published in accordance with regulation 60(2), amend or revoke a quarantine area notice published under that regulation.

(2) If a quarantine area notice is amended or revoked under subregulation (1), any quarantine notice that is taken to have been given under regulation 60(4) is taken to have been amended or revoked accordingly.

62. Director General review: quarantine notice

(1) A person who has been given a quarantine notice may, in writing, request the Director General to review it.

(2) On receiving such a request the Director General may suspend the notice pending making a decision under subregulation (3).

(3) On receiving such a request the Director General may —

(a) review the notice and amend, suspend, revoke or confirm it; or

(b) refuse to review the notice.

(4) If the Director General amends a quarantine notice it has effect accordingly.

(5) The Director General must give the person who requested the review written advice of the decision on the review and the reasons for that decision.

(6) Nothing in this regulation prejudices any right of review that a person might have under regulation 63 but, if a request for review has been made under this regulation, that right of review must not be exercised until a decision under subregulation (3) has been made.

63. SAT review: quarantine notice

A person aggrieved by a decision of an inspector or the Director General to —

(a) give or amend a quarantine notice; or

(b) make a declaration under regulation 60(1); or

(c) amend a quarantine area notice under regulation 61(1),

may apply to the State Administrative Tribunal for a review of the decision.

Division 3 — Provisions applying to places subject to pest control notice or quarantine notice

64. Warning signs

(1) An inspector —

(a) may give a person to whom a pest control notice or a quarantine notice is given; and

(b) must include with a direction under regulation 65 or a movement notice,

a written direction to erect and maintain signs in accordance with this regulation.

(2) The direction must specify the following —

(a) the content of the signs;

(b) the size and construction of the signs;

(c) the places where the signs are to be erected;

(d) the time within which the signs are to be erected;

(e) the period for which the signs are to be maintained.

(3) Subregulation (2)(a) and (b) do not apply if the signs are supplied by the inspector.

(4) The signs must —

(a) be clear and legible; and

(b) indicate that the place is a quarantined place; and

(c) if an organism of concern is identified in the notice, specify the organism; and

(d) include such contact details and other information —

(i) as are specified in the direction to erect the signs; or

(ii) if the signs are supplied by the inspector, as the inspector thinks fit.

(5) If, under regulation 65, entry to the quarantined place is restricted, each sign must bear a conspicuous warning that entry upon the place is restricted and that a person entering the place contrary to the restriction commits an offence and is liable to prosecution.

(6) If, under regulation 66, movement within or from the quarantined place is restricted, each sign must bear a conspicuous warning that such movement is restricted and that a person moving an organism of concern or a potential carrier contrary to the restriction commits an offence and is liable to prosecution.

(7) A person given a direction under subregulation (1) must comply with the direction.

Penalty: a fine of $10 000.

(8) A person must not, without lawful authority, remove, obscure or otherwise interfere with a sign erected under this regulation.

Penalty for an offence under subregulation (8): a fine of $10 000.

65. Restriction of entry

(1) A quarantine notice may include a direction that entry to the place quarantined under the notice be restricted as specified in the notice.

(2) An inspector may restrict entry to a quarantined place specified in a pest control notice by written direction given to the person to whom a relevant pest control notice is given.

(3) The direction may require that —

(a) persons of a class specified in the direction; or

(b) persons other than persons of a class specified in the direction,

must not enter upon any part of the quarantined place except in accordance with the prior written approval of an inspector.

(4) A person must not enter a place in contravention of a direction given under subregulation (2).

Penalty: a fine of $20 000.

(5) A person aggrieved by a decision to give a direction under subregulation (2) may apply to the State Administrative Tribunal for a review of the decision.

66. Movement directions

(1) A pest control notice or quarantine notice may include a direction that the person to whom the notice is given must not move the organism of concern or a potential carrier specified in the notice, or of a class specified in the notice, onto, within or from the quarantined place except in accordance with —

(a) the notice; or

(b) an approval under regulation 67; or

(c) a general exemption having effect under regulation 71.

(2) A quarantine notice may include a direction that —

(a) persons of a class specified in the notice; or

(b) persons other than persons of a class specified in the notice,

must not move the organism of concern or a potential carrier specified in the notice, or of a class specified in the notice, onto, within or from the quarantined place except in accordance with —

(c) the notice; or

(d) an approval under regulation 67; or

(e) a general exemption having effect under regulation 71.

(3) An inspector may, by written notice (a ***movement notice***) given to the person to whom a pest control notice is given, direct that —

(a) persons of a class specified in the notice; or

(b) persons other than persons of a class specified in the notice,

must not move an organism of concern or a potential carrier specified in the movement notice, or of a class specified in the movement notice, onto, within or from the quarantined place specified in the movement notice except in accordance with the movement notice, or in accordance with an approval under regulation 67 or a general exemption having effect under regulation 71.

(4) A person given a quarantine notice with a direction as referred to in subregulation (2) or a movement notice must not allow a person to move any organism of concern or potential carrier specified in the notice, or of a class specified in the notice, onto, within or from the quarantined place specified in the notice, unless the person given the notice has given the other person —

(a) a copy of the notice; and

(b) if the proposed movement is the subject of approval under regulation 67, a copy of the approval.

Penalty: a fine of $20 000.

(5) A person must not, except in accordance with an approval under regulation 67 or a general exemption having effect under regulation 71, move an organism or potential carrier in contravention of a movement notice.

Penalty: a fine of $20 000.

67. Approval for movement

(1) If a person wants to move an organism of concern or a potential carrier from a quarantined place but —

(a) to do so would be in contravention of a pest control notice, a quarantine notice or a movement notice; and

(b) there is no general exemption under regulation 71 under which the organism or carrier could be moved,

that person may apply to the Director General for approval under this regulation to move the organism or carrier.

(2) An application under subregulation (1) —

(a) must be accompanied by a copy of the pest control notice, quarantine notice or movement notice; and

(b) must state the following —

(i) the description and quantity of the organism or carrier proposed to be moved;

(ii) the time when, and the place to which, the organism or carrier is to be moved;

(iii) if ownership in the organism or carrier is to be disposed of, the name, address and occupation of the person who will acquire the ownership;

(iv) the use to which the organism or carrier is proposed to be put;

(v) the proposed method of transportation and the precautions that will be adopted to prevent the spread of the organism in respect of which the notice was given.

(3) For the purpose of deciding an application for approval under this regulation the Director General may request further information to be provided.

(4) On an application for approval under this regulation, the Director General may grant, or refuse to grant, the approval.

(5) A person aggrieved by a decision of the Director General to refuse to grant an approval may apply to the State Administrative Tribunal for a review of the decision.

68. Conditions of approval for movement

(1) An approval under regulation 67 may include any conditions that the Director General thinks fit.

(2) Without limiting subregulation (1), the approval may be granted subject to any of the following conditions —

(a) that the organism of concern or potential carrier to which the approval relates be marked, labelled or otherwise identified in a manner specified in the approval;

(b) that any organism of concern or potential carrier or class of organism of concern or potential carrier specified in the approval be inspected in the manner specified in the approval;

(c) if a potential carrier is found to or appears likely to carry an organism of concern specified in the pest control notice or quarantine notice, that it be subjected to any treatment, or be disposed of as, specified in the approval.

69. Offences in relation to approved movement

(1) A person must not, without the authorisation of an inspector, interfere with the movement of any organism of concern or potential carrier that is being moved in accordance with an approval under regulation 67(1).

Penalty: a fine of $20 000.

(2) A person must not, without the authorisation of an inspector, remove, obscure or alter a mark, label or other identification affixed to an organism of concern or potential carrier for the purpose of complying with a condition imposed under regulation 68.

Penalty: a fine of $20 000.

70. Duty of outgoing owner to notify Director General and new owner

An owner of land who is bound by a pest control notice or a quarantine notice in respect of an organism of concern found or kept or suspected to be on or in the vicinity of the land must —

(a) before agreeing with another person in writing that the other person will succeed the owner in the ownership of the land notify the other person in writing of the following —

(i) that the current owner is bound by a pest control notice or quarantine notice;

(ii) the contents of the notice;

(iii) the fact that the pest control notice or quarantine notice will be binding on the other person if that person succeeds the current owner in ownership of the land;

and

(b) within 30 days after ceasing to be owner, notify the Director General of the name and address of each person who succeeds the former owner in the ownership of the land.

Penalty: a fine of $10 000.

71. Exemption from requirements of notices

(1) The Director General may, by notice published in the *Gazette*, grant a general exemption from such of the requirements of a pest control notice, quarantine notice or movement notice as are specified in the notice, in relation to a place specified in the notice.

(2) The notice may specify the time or times during which the exemption applies.

(3) The exemption may be granted subject to conditions specified in the notice.

(4) The Director General may, by notice published in the *Gazette*, amend or revoke an exemption granted under subregulation (1).

(5) The Director General must cause a copy of the notice to be published —

(a) in a newspaper circulating generally in the area where the place specified in the notice is situated; and

(b) on the department's electronic site.

[Regulation 71 amended: Gazette 6 Sep 2019 p. 3190.]

Part 5 — Import of organisms and potential carriers

72. Permitted import of prescribed potential carriers

(1) In this regulation —

area freedom requirement, in relation to a prescribed potential carrier, means that the carrier is imported from —

(a) a State or Territory that is free of organisms that are declared pests in the DP area into which the carrier is being imported; or

(b) an area within a State or Territory that is free of organisms that are declared pests in the DP area into which the carrier is being imported; or

(c) a place of production within a State or Territory that is free of organisms that are declared pests in the DP area into which the carrier is being imported; or

(d) a production site in a place of production within a State or Territory where the production site is free of organisms that are declared pests in the DP area into which the carrier is being imported;

import requirement means an import requirement determined under subregulation (4);

interstate assurance certificate has the meaning given in the *Biosecurity and Agriculture Management (Quality Assurance and Accreditation) Regulations 2013*;

interstate export certificate has the meaning given in the *Biosecurity and Agriculture Management (Quality Assurance and Accreditation) Regulations 2013.*

(2) For the purposes of section 15(3)(a), the import of a prescribed potential carrier is permitted if —

(a) the carrier —

(i) is imported as authorised by, and in accordance with the terms and conditions of, an import permit; or

(ii) is treated in accordance with, or otherwise satisfies, the import requirements, if any, that apply to a carrier of that kind and an inspector does not require the carrier to be further treated before it is removed from an inspection point; or

(iii) is treated as required by an inspector after being presented for inspection at an inspection point or other place as directed; or

(iv) is, or is of a class of prescribed potential carrier that is, the subject of an exemption under regulation 79(4) and satisfies the import requirements, if any, that apply to a carrier of that kind;

and

(b) the producer or manufacturer details of the carrier are clearly visible at the time of import.

(3) An interstate assurance certificate or an interstate export certificate may be used as evidence that an import requirement to which the certificate relates has been satisfied.

(4) The Director General may determine import requirements for the purposes of subregulation (2)(a)(ii) and publish those requirements on the department's electronic site.

(5) Without limiting the import requirements that may be determined under subregulation (4), the import requirements may include the following —

(a) treatment by —

(i) fumigation;

(ii) irradiation;

(iii) steam or heat;

(iv) cold;

(v) liquid chemical;

(vi) immersion;

(vii) any other approved method;

(b) cleaning at an approved quarantine facility;

(c) area freedom requirements;

(d) packing at an approved packing facility.

[Regulation 72 amended: Gazette 6 Sep 2019 p. 3190-1.]

73. Import of permitted organisms

(1) The Minister may, by declaration, assign a permitted organism to the category "permit required".

(2) Section 157 applies to a declaration made under this regulation as if it were a declaration within the meaning of that section.

(3) The Director General must —

(a) establish and maintain a list of all permitted organisms assigned to the category "permit required"; and

(b) ensure that the list is published on, or accessible through, the department's electronic site.

(4) A person must not import a permitted organism assigned to the category "permit required" unless the organism is imported as authorised by, and in accordance with the terms and conditions of, an import permit and these regulations.

Penalty for this subregulation: a fine of $10 000.

[Regulation 73 amended: Gazette 6 Sep 2019 p. 3191.]

74. Import of fish: exemption

Section 15(2) does not apply in relation to the import of fish.

Note for this regulation:

The import of fish is regulated under the *Fish Resources Management Act 1994* and the *Pearling Act 1990*.

75. Notice of intention to import

(1) In this regulation —

Australia Post has the meaning given in the *Australian Postal Corporation Act 1989* (Commonwealth) section 3;

commercial carrier has the meaning given in section 20(1).

(2) This regulation does not apply —

(a) to Australia Post, or a commercial carrier, when carrying on the business of transporting packaged items into the State from a location outside of the State by express parcel freight; or

(b) in relation to a declared pest in respect of which notice has been given under regulation 76.

(3) A commercial carrier transporting any declared pest or prescribed potential carrier into the State from a location outside of the State must, before the declared pest or potential carrier is imported, give not less than 24 hours notice to the Director General of the time and place of entry into the State of the declared pest or potential carrier.

Note for this subregulation:

The penalty for a commercial carrier failing to give notice in accordance with the regulations is set out in section 20(2).

(4) Any person who proposes to import an organism or prescribed potential carrier under an import permit must, before the organism or potential carrier is imported, give not less than 24 hours notice to the Director General of the time and place of entry into the State of the organism or potential carrier.

Penalty for this subregulation: a fine of $15 000.

(5) Notice required under subregulation (3) or (4) must be given in an approved manner.

[Regulation 75 amended: Gazette 6 Sep 2019 p. 3191-2.]

76. Notice of intention to import declared pest under Commonwealth permit

(1) A person who proposes to import a declared pest into Western Australia from another country under a permit issued under the *Quarantine Act 1908* (Commonwealth) or the *Environment Protection and Biodiversity Conservation Act 1999* (Commonwealth) must, not later than 20 working days before the expected arrival of the declared pest in the State, notify the Director General of the expected arrival date.

Penalty: a fine of $10 000.

(2) It is sufficient compliance with subregulation (1) if the person sends the Director General a copy of the relevant permit by post, facsimile transmission or electronic means.

77. Information to be given by commercial passenger carrier to passengers

A commercial passenger carrier who transports passengers into the State by means of a conveyance from a location outside the State must not bring the conveyance into the State unless the carrier has given to the passengers the following information —

(a) it is an offence to import a prohibited organism or an unlisted organism except in accordance with an import permit and these regulations;

(b) it is an offence to import certain other potential carriers and organisms except in accordance with these regulations;

(c) details of the department's electronic site on which further information about the offences can be obtained;

(d) details of where any organism or potential carrier that is in the possession of the passenger can be disposed of;

(e) any other information that the Director General has, by written notice given to the commercial passenger carrier,

required the carrier to provide for the purposes of section 19(2).

Note for this regulation:

The penalty for failing to give the information is set out in section 19(2).

[Regulation 77 amended: Gazette 6 Sep 2019 p. 3192.]

78. Disposal of organisms and potential carriers by commercial passenger carrier: s. 19(4)

For the purposes of section 19(4), a commercial passenger carrier must dispose of an organism or potential carrier —

(a) at an approved quarantine facility; or

(b) at a quarantine facility provided by arrangement under section 165; or

(c) at an approved place; or

(d) in an approved manner.

Note for this regulation:

The penalty for failing to dispose of an organism or potential carrier in accordance with this regulation is set out in section 19(4).

79. Inspection and verification of imported organisms and prescribed potential carriers

(1) In this regulation —

nearest inspection point, in relation to an organism or prescribed potential carrier, means the nearest inspection point to the place where the organism or carrier first enters the State that is designated under section 166 as an inspection point for that type of organism or carrier.

(2) Subject to subregulation (3), this regulation applies to the following —

(a) any prohibited organism;

(b) any unlisted organism;

(c) any prescribed potential carrier;

(d) any permitted organism assigned under regulation 73 to the category "permit required".

(3) This regulation does not apply —

(a) to the extent that —

(i) an import permit specifies that an organism or prescribed potential carrier is to be dealt with in a manner that differs from that prescribed in subregulation (5) or (6); or

(ii) an organism or prescribed potential carrier is dealt with in accordance with the written directions of an inspector in a manner that differs from that prescribed in subregulation (5) or (6);

or

(b) to an organism or prescribed potential carrier imported by vessel arriving at a sea port if that person importing the organism or prescribed potential carrier —

(i) gives the Director General, not later than 1 working day before the expected time of importation, notice in an approved manner of the time and place of entry into the State of the organism or prescribed potential carrier; and

(ii) keeps the organism or potential carrier on the vessel until an inspector authorises or directs the removal of the organism or potential carrier;

or

(c) to a cargo container and its contents if —

(i) the person importing the cargo container and its contents gives an inspector, not later than one working day before the expected time of the importation, notice of the import or any other document that satisfies the inspector as to the contents of the cargo container; and

(ii) the inspector does not advise the person before the expected time of the importation that inspection of the cargo container and its contents is required;

or

(d) to an organism or prescribed potential carrier or class of organism or prescribed potential carrier specified in a notice published under subregulation (4).

(4) The Director General may, by notice published on the department's electronic site, exempt an organism or prescribed potential carrier or class of organism or prescribed potential carrier from the operation of subregulation (5).

(5) For the purposes of section 21(3)(a), a person who imports an organism or prescribed potential carrier to which this regulation applies must present the organism or carrier for inspection by an inspector at the nearest inspection point.

Note for this subregulation:

The penalty for failing to present an organism or prescribed potential carrier for inspection in accordance with the regulations is set out in section 21(3).

(6) A person who is required to present an organism or prescribed potential carrier for inspection under subregulation (5) must —

(a) ensure that the organism or carrier is kept secure until it is inspected by an inspector at the nearest inspection point; and

(b) as soon as possible after the importation, take the organism or carrier by the shortest possible route to the nearest inspection point.

Penalty for this subregulation: a fine of $20 000.

[Regulation 79 amended: Gazette 6 Sep 2019 p. 3192-3.]

*[**80.** Deleted: Gazette 6 Sep 2019 p. 3193.]*

Part 6 — Inspection of conveyances and movement directions

81. Term used: inspection purposes

In this Part —

inspection purposes has the meaning given in section 64.

82. Inspection warning signs

(1) For inspection purposes and the purposes of section 65(1)(a), a warning sign may be erected or displayed beside any road to give notice to a person driving on that road of the presence of an inspector.

(2) A warning sign that is erected or displayed beside a road under subregulation (1) has the effect of a requirement by an inspector that any person driving a conveyance on that road towards that warning sign must reduce the speed of the conveyance or stop the conveyance according to the requirements of the sign.

(3) The driver of a conveyance must, on reaching a warning sign, comply with the requirements of the sign.

Penalty: a fine of $20 000.

(4) Upon stopping a conveyance in accordance with the requirements of a warning sign, the driver of a conveyance must keep the conveyance stationary until permitted by an inspector to proceed.

Penalty: a fine of $20 000.

83. Damage to signs

A person must not, without lawful authority, remove, obscure, damage or otherwise interfere with a warning sign erected or displayed beside a road under regulation 82.

Penalty: a fine of $20 000.

84. Inspector may require driver to stop

(1) An inspector may, either orally or by a hand signal, require the driver of a conveyance to stop the conveyance.

Note for this subregulation:

A person who without lawful excuse does not comply with a lawful requirement of an inspector commits an offence under section 92(d).

(2) A driver required under subregulation (1) to stop a conveyance must keep the conveyance stationary until permitted by the inspector to proceed.

Penalty: a fine of $20 000.

85. Transfer of control: directions

(1) In this regulation —

direction means a direction in writing by an inspector.

(2) If —

(a) a person who is or appears to be in control of a conveyance, organism, consignment of goods or potential carrier is given a direction; and

(b) before that person has complied with the direction, control of the conveyance, organism, consignment of goods or potential carrier is transferred to another person,

the person referred to in paragraph (a) must give a copy of the direction to the person to whom control of the conveyance, consignment of goods or potential carrier is transferred.

Penalty: a fine of $20 000.

Part 7 — Protection of agricultural activities

86. Directions about untended plants, bees or apiaries

(1) The Director General may give a direction under this regulation if the Director General is satisfied that —

(a) either —

(i) plants that are, or have been, raised or used in the course of an agricultural activity have been abandoned or neglected or are otherwise untended; or

(ii) bees or apiaries are, or have been, abandoned or neglected or are otherwise untended;

and

(b) if left untended, the plants, bees or apiaries are likely to spread a declared pest or an unlisted organism.

(2) The Director General may direct the owner or person in control of a place where neglected, abandoned or otherwise untended plants, bees or apiaries are found —

(a) to destroy or otherwise dispose of the plants, bees or apiaries within a period and by a means specified in the direction; or

(b) in the case of bees — to transfer the bees within a period specified in the direction to a hive of a design specified in the direction.

(3) The direction must —

(a) be in writing; and

(b) inform the person to whom the direction is given that failure to comply with the direction could result in a fine, the Director General taking remedial action under regulation 133, or both.

(4) A person aggrieved by a direction under subregulation (2) may apply to the State Administrative Tribunal for a review of the direction.

(5) The commencement of a proceeding under subregulation (4) has the effect of staying the operation of the direction.

(6) The State Administrative Tribunal may act under the *State Administrative Tribunal Act 2004* section 25(6) in relation to a direction that is stayed under subregulation (5) as if the order were stayed by an order of the Tribunal under section 25 of that Act, and section 25(7) of that Act applies accordingly.

(7) A person given a direction under subregulation (2) must comply with the direction.

Penalty for this subregulation: a fine of $10 000.

[Regulation 86 amended: Gazette 6 Sep 2019 p. 3194.]

86A. Bees to be kept in hives of approved design

(1) A person who keeps bees must keep them in a hive of an approved design.

Penalty for this subregulation: a fine of $10 000.

(2) Subregulation (1) does not apply to a person who keeps bees in a cage or ventilated box without frames for the purpose of —

(a) moving the bees from one place to another; or

(b) moving the bees in accordance with the terms and conditions of a permit held by that person.

[Regulation 86A inserted: Gazette 6 Sep 2019 p. 3194-5.]

87. Storage of hives

(1) A person must not store, or cause to be stored, a hive unless the entrance to the hive is closed.

Penalty: a fine of $10 000.

(2) For the purpose of this regulation a hive is stored if there are no living bees in the hive.

(3) An inspector may, by written notice given to a beekeeper, require the beekeeper to store a hive or hives in a place or manner, specified in the notice.

(4) A person given a notice under subregulation (3) must comply with it.

Penalty: a fine of $10 000.

88. Prevention of robbing

A person must not expose used hives, combs or honey in such a manner as may attract bees to rob from the hives, combs or honey.

Penalty: a fine of $10 000.

89. Storage of hive products

A person must not store hive products in a way that attracts declared pests to breed and develop in them.

Penalty: a fine of $10 000.

90. Water to be provided to apiary sites

(1) In this regulation —

apiary site means the place occupied by an apiary.

(2) Unless water is available from natural sources, every beekeeper must provide a good and sufficient supply of water on every apiary site in a way that is readily accessible to the bees on that site.

Penalty: a fine of $10 000.

Part 8 — Permits

Division 1 — Grant or renewal of permit

91. Application for permit or renewal of permit

(1) A person who wishes to obtain or renew —

(a) an import permit; or

(b) any other permit for the purposes of these regulations,

must apply in accordance with this regulation.

(2) The application must —

(a) be made to the Director General in an approved manner and form; and

(b) specify the purpose for which the permit is sought; and

(c) specify any potential carrier or the scientific name or group of any declared pest to which it relates; and

(d) be accompanied by the appropriate fee, if any, determined under Part 10; and

(e) be accompanied by any documents and other information specified on the approved form.

(3) An application for the renewal of a permit must be made not later than 3 months before the day on which the permit is due to expire or at such later time as the Director General may allow.

(4) The applicant must provide the Director General with any further information that the Director General requests in any particular case.

(5) The Director General may decline to deal with an application that does not comply with this regulation or regulation 92, or if a requirement under subregulation (4) is not complied with, and must advise the applicant accordingly.

92. Further requirements for application by body corporate or partnership

If an application for a permit is made by a body corporate or partnership, the application must —

(a) nominate at least one individual concerned in the management of, or employed by, the body corporate or partnership who will be responsible for the supervision of activities authorised by the permit (a ***permit supervisor***); and

(b) state the contact details of the individual.

93. Grant or renewal of permit

(1) The Director General may grant or renew, or refuse to grant or renew, a permit.

(2) In making a decision under subregulation (1) with respect to a permit to keep, breed or cultivate a declared pest, the Director General must have regard to the keeping category to which the declared pest has been assigned under regulation 7(2) or 8(2).

(3) In making a decision under subregulation (1), the Director General may take into account whether, in the opinion of the Director General —

(a) the applicant is a fit and proper person to hold the permit; and

(b) in the case of an application by a body corporate or partnership — each permit supervisor nominated under regulation 92(a) is a fit and proper person to be responsible for the supervision of activities that would be authorised by the permit.

(4) When determining whether an applicant or permit supervisor nominated under regulation 92(a) is a fit and proper person, the Director General may have regard to —

(a) whether there are reasonable grounds for believing that the applicant has contravened the terms or conditions of an authorisation under the Act; and

(b) any other matter the Director General thinks relevant.

(5) The Director General must give the applicant written notice of the grant or renewal of a permit or a decision to refuse to grant or renew a permit.

94. Form of permit

A permit must set out the following —

(a) the name of the person to whom it is granted;

(b) the scientific name or group of the organism or declared pest, if any, to which the permit applies;

(c) the activities or procedures that are authorised under the permit;

(d) any conditions to which the permit is subject;

(e) any other details that the Director General considers appropriate.

95. Permit granted to body corporate or partnership — permit supervisor

(1) A permit granted to a body corporate or partnership has no effect unless it specifies the contact details of at least one permit supervisor nominated under regulation 92(a).

(2) A body corporate or partnership that holds a permit may at any time apply to have the permit amended so as to add, amend or remove the contact details of a permit supervisor.

(3) A permit granted to a body corporate or partnership ceases to have effect if every permit supervisor specified in the permit

ceases to be concerned in the management of, or employed by, the body corporate or partnership.

96. Duration of permit

(1) Subject to this Part, a permit continues in force from the date on which it is granted until the end of the period that is specified in the permit.

(2) A permit must not be granted or renewed for a period exceeding 5 years.

(3) If an application for renewal of a permit is not decided on or before the day on which the permit expires (the ***expiry day***), the permit has effect after the expiry day until the Director General renews, or refuses to renew, the permit, unless in the meantime the permit is revoked or the application is withdrawn.

(4) A renewal of a permit takes effect on the day after the expiry day.

Division 2 — Conditions on permit

97. Conditions

(1) A permit is subject to any conditions imposed under these regulations.

(2) The Director General may impose conditions on a permit —

(a) when it is granted or renewed; or

(b) during its currency.

(3) The Director General may revoke or amend conditions imposed under subregulation (2).

(4) This regulation has effect subject to regulations 99 and 100 in relation to the amendment of a permit during its currency by the imposition, revocation or amendment of a condition.

98. Contravention of conditions

A person must not contravene a condition to which a permit, other than a permit to keep, breed, cultivate or supply a declared pest, is subject.

Penalty: a fine of $20 000.

Note for this regulation:

It is an offence under section 25 to contravene the terms or conditions of an authorisation to keep, breed, cultivate or supply a declared pest.

Division 3 — Amendment, suspension, revocation or surrender of permit

99. Amendment, revocation or suspension of permit

(1) The Director General may revoke or suspend a permit if —

(a) the Director General is satisfied that there has been a breach of any of the conditions to which the permit is subject; or

(b) the Director General is satisfied that the permit holder is not complying with a pest control notice or a pest keeping notice given in relation to the permit; or

(c) the Director General is satisfied that allowing the permit to remain in force would constitute an unacceptable biosecurity risk; or

(d) information contained in or supporting the application for the permit was false or misleading in a material respect; or

(e) the Director General is satisfied that there are other relevant reasons why the permit should be revoked or suspended.

(2) The Director General may amend a permit —

(a) as mentioned in regulation 97; or

(b) for formal or clerical reasons; or

(c) in conformity with an exemption conferred under the Act; or

(d) subject to regulation 96, to extend the duration of the permit; or

(e) if the Director General is satisfied that there are other relevant reasons why the permit should be amended.

(3) Before —

(a) amending a permit under subregulation (2)(a) or (e); or

(b) suspending or revoking a permit,

the Director General must give the permit holder a written notice under this regulation.

(4) The notice must —

(a) state details of the proposed action and the reasons for the proposed action; and

(b) invite the permit holder to make representations to the Director General to show why the action should not be taken; and

(c) state the period (at least 28 days after the notice is given to the permit holder) within which representations may be made.

(5) The representations must be made in writing.

(6) The Director General may take the proposed action —

(a) at any time after the permit holder gives the Director General written notice that the permit holder does not intend to make any representations or any further representations; or

(b) if such notice is not given, after the end of the period stated in the notice within which representations may be made.

(7) The Director General must consider any representations properly made by the permit holder.

(8) The Director General must give the permit holder written notice of any amendment, suspension or revocation of the permit.

(9) Without limiting subregulation (8), notice of an amendment can be given in the form of a revised permit.

100. Immediate amendment or suspension of permit

(1) This regulation applies, despite regulation 99, if the Director General considers it necessary in the public interest to immediately amend or suspend a permit, whether or not any action has been taken or commenced under regulation 99 in relation to the permit.

(2) The Director General may, by written notice given to the permit holder, immediately suspend the permit until the earlier of the following —

(a) the time at which the Director General informs the permit holder of the Director General's decision under regulation 99;

(b) the end of the period of 90 days after the notice is given to the permit holder under this regulation.

(3) The Director General may, by written notice given to the permit holder immediately amend the permit.

(4) The Director General may revoke the suspension at any time.

101. Amendment, suspension or surrender on application by permit holder

(1) A permit holder may apply to the Director General to —

(a) amend a permit; or

(b) suspend a permit for a time specified in the application; or

(c) surrender a permit.

(2) An application to amend, suspend or surrender a permit must —

(a) be made in the approved manner and form; and

(b) be accompanied by the appropriate fee, if any, determined under Part 10; and

(c) be supported by any documents and information required by the Director General.

(3) After considering an application under subregulation (1) and the reasons for which it is made, the Director General may by written notice —

(a) grant the application; or

(b) refuse the application.

(4) If the Director General decides to refuse an application under subregulation (1), the Director General must give the applicant written notice of the decision and the reasons for the decision.

(5) The amendment, suspension or surrender of a permit under this regulation is effected by written notice given to the applicant.

(6) Regulation 99 does not apply in the case of an amendment, suspension or surrender under this regulation.

Division 4 — Review

102. Review

(1) In this regulation —

reviewable decision means a decision of the Director General —

(a) to refuse to grant or renew a permit; or

(b) to impose a condition on a permit; or

(c) to amend a permit; or

(d) to revoke or suspend a permit; or

(e) to refuse an application made under regulation 101(1).

(2) A person aggrieved by a reviewable decision may apply to the State Administrative Tribunal for a review of the decision.

Division 5 — Miscellaneous

103. Record keeping by permit holder

(1) Without limiting regulation 97, a permit may be granted or renewed subject to the condition that the permit holder keep a record in the approved manner that contains information in relation to any or all of the following matters —

(a) the species and number of declared pests being kept, bred or cultivated under the authority of the permit at the start of a period specified in the condition;

(b) the area of land on which declared pests are kept, bred or cultivated under authority of the permit at the start of a period specified in the condition;

(c) the species and number of declared pests supplied by the permit holder to another person during the period specified in the condition;

(d) the species and number of declared pests supplied to the permit holder by another person during the period specified in the condition;

(e) the names and contact details of persons to whom and by whom the declared pests were supplied and the number of declared pests supplied in each case;

(f) details of locations and dates on which declared pests were exhibited on mobile premises during the period of the permit, and details of the declared pests exhibited;

(g) the number of declared pests produced from the original declared pests kept under the permit and the number of declared pests originally kept or produced that died or were destroyed;

(h) the use, if any, to which the declared pests were put during the period specified in the condition;

(i) any other information specified in the permit that the Director General believes is appropriate.

(2) A permit holder must retain a record kept as a condition of a permit for the term specified in the permit, or, if a term is not specified, for not less than 5 years after the record is made.

Penalty: a fine of $5 000.

104. Return by permit holder

(1) The Director General may, by written notice given to a permit holder or as a condition of a permit, require the permit holder to give the Director General, within the time specified in the notice or condition, information of a kind specified in the notice or condition in relation to a matter required to be kept in a record as a condition of the permit.

(2) The Director General may require the information to be given on an annual or other regular basis or from time to time as specified by the Director General.

(3) A permit holder must comply with a requirement in a notice given to the permit holder under subregulation (1).

Penalty: a fine of $5 000.

(4) The Director General may, by further written notice, amend or revoke a notice given under subregulation (1).

105. Falsely holding out

A person must not hold himself or herself out as the holder of a permit if the person does not hold the permit.

Penalty: a fine of $20 000.

106. Transfer of permit

(1) A permit cannot be transferred except with the consent of the Director General.

(2) An application for consent must be made by the person wishing to hold the permit after the transfer.

(3) Regulations 91 to 95 apply in relation to an application for consent to transfer a permit as if the application were an application for a permit.

Part 9 — Quarantine facilities

Division 1 — Grant or renewal of approval

107. Application for approval of, or renewal of approval of, quarantine facility

(1) The owner or occupier of a place who wishes to obtain or renew approval of the place as a quarantine facility must apply in accordance with this regulation.

(2) The application must —

(a) be made to the Director General in the approved manner and form; and

(b) specify the purpose for which the approval is sought; and

(c) specify the activities that will be carried on at the quarantine facility and the procedures that will be used in the course of the activities; and

(d) specify any potential carrier or the scientific name or group of any declared pest proposed to be kept at the facility; and

(e) include acknowledgment by the applicant that it is understood that if approval is given —

(i) the approval is subject to compliance with the Act and the *Animal Welfare Act 2002* for the duration of the approval; and

(ii) an inspector may exercise inspection powers under the Act in relation to the premises; and

(iii) the Director General may revoke or suspend the approval under these regulations.

(3) The application must be —

(a) accompanied by the appropriate fee, if any, determined under Part 10; and

(b) supported by any documents and other information specified on the approved form.

(4) An application for the renewal of approval must be made not later than 3 months before the day on which the approval is due to expire or at such later time as the Director General may allow.

(5) The applicant must provide the Director General with any further information that the Director General requires in any particular case.

(6) The Director General may decline to deal with an application that does not comply with this regulation or regulation 108 or 109, or if a requirement under subregulation (5) is not complied with, and must advise the applicant accordingly.

108. Further requirements for application by body corporate or partnership

If the application for approval, or renewal of approval, of a place as a quarantine facility is made by a body corporate or a partnership, the application must —

(a) nominate at least one individual concerned in the management of, or employed by, the body or partnership who will be responsible for the supervision of the facility (a ***facility supervisor***); and

(b) state the contact details of the individual.

109. Statement by applicant and nominated facility supervisor

(1) In this regulation —

relevant law means any of the following laws, including regulations made under that law —

(a) the Act;

(b) the *Agriculture and Related Resources Protection Act 1976*;

(c) the *Plant Diseases Act 1914*;

(d) the *Stock Diseases (Regulations) Act 1968*;

(e) the *Wildlife Conservation Act 1950*;

(ea) the *Biodiversity Conservation Act 2016*;

(f) the *Fish Resources Management Act 1994*;

(g) the *Animal Welfare Act 2002*;

(h) a law of another place that substantially corresponds to a law mentioned in paragraphs (a) to (g);

(i) the *Environment Protection and Biodiversity Conservation Act 1999* (Commonwealth);

(j) the *Quarantine Act 1908* (Commonwealth).

(2) An application under regulation 107 must be accompanied by a statement by the applicant as to the following matters —

(a) whether a previous application by the applicant for approval of a quarantine facility under these regulations has been approved or refused;

(b) whether an approval of a quarantine facility granted to the applicant under these regulations, or any other authorisation granted to the applicant under the Act, has been suspended or revoked;

(c) the details of any offence against a relevant law of which the applicant has been convicted in the 10 years immediately preceding the application;

(d) the details of any pending charge of an offence against the applicant under a relevant law.

(3) An application under regulation 107 by a body corporate or partnership must be accompanied by a statement by each facility supervisor nominated under regulation 108(a) as to the following matters —

(a) whether an application by the individual for approval of a quarantine facility under these regulations has been approved or refused;

(b) whether an approval of a quarantine facility granted to the individual under these regulations, or any other authorisation granted to the individual under the Act, has been suspended or revoked;

(c) the details of any offence against a relevant law of which the individual has been convicted in the 10 years immediately preceding the application;

(d) the details of any pending charge of an offence against the individual under a relevant law.

[Regulation 109 amended: Gazette 14 Sep 2018 p. 3306.]

110. Approval of quarantine facility

(1) The Director General may approve or refuse to approve —

(a) a place as a quarantine facility; or

(b) the renewal of the approval of a place as a quarantine facility.

(2) In making a decision under subregulation (1) with respect to a place where any declared pest is or is proposed to be kept, the Director General must have regard to —

(a) the keeping category to which the declared pest has been assigned under regulation 7(2) or 8(2); and

(b) whether the place is suitable for keeping a declared pest of that category.

(3) In deciding whether to approve, or renew the approval of, a place as a quarantine facility, the Director General must take into account whether, in the opinion of the Director General —

(a) the applicant is a fit and proper person for the purpose of holding the approval of a quarantine facility; and

(b) in the case of an application by a body corporate or partnership — each facility supervisor nominated under regulation 108(a) is a fit and proper person to be responsible for the supervision of the quarantine facility.

(4) When determining whether an applicant or facility supervisor nominated under regulation 108(a) is a fit and proper person, the Director General may have regard to —

(a) any statement accompanying the application under regulation 109; and

(b) whether there are reasonable grounds for believing that the applicant has contravened the terms or conditions of an authorisation under the Act; and

(c) any other matter the Director General thinks relevant.

(5) The Director General must give the applicant written notice of the approval, renewal or refusal.

111. Form of approval

The approval must set out the following —

(a) the person in whose name the facility is approved;

(b) the location of the facility;

(c) the scientific name or group and numbers of the organisms and declared pests, if any, that may be kept at the facility;

(d) the numbers of potential carriers and declared pests, if any, that may be kept at the facility;

(e) the way in which any potential carriers and declared pests are to be kept;

(f) any other details that the Director General considers appropriate.

112. Approval granted to body corporate or partnership — facility supervisor

(1) An approval of a quarantine facility granted to a body corporate or a partnership has no effect unless it specifies the contact details of at least one facility supervisor nominated under regulation 108(a).

(2) A body corporate or partnership that holds an approval of a quarantine facility may at any time apply to have the approval amended so as to add, amend or remove the contact details of a facility supervisor.

(3) An approval of a quarantine facility granted to a body corporate or partnership ceases to have effect if every facility supervisor specified in the approval ceases to be concerned in the management of, or employed by, the body corporate or partnership.

113. Duration of approval

(1) Subject to this Part, approval of a quarantine facility continues in force from the date on which it is granted until the end of the period that is specified in the approval.

(2) An approval of a quarantine facility must not be granted or renewed for a period exceeding 5 years.

(3) If an application for renewal of an approval is not decided on or before the day on which the approval expires (the ***expiry day***), the approval has effect after the expiry day until the Director General renews, or refuses to renew, the approval, unless in the meantime the approval is revoked or the application is withdrawn.

(4) A renewal of an approval takes effect on the day after the expiry day.

Division 2 — Conditions on approval

114. Conditions imposed by Director General

(1) The Director General may impose conditions on an approval of a quarantine facility —

(a) when it is granted or renewed; or

(b) during its currency.

(2) The Director General may revoke or amend conditions imposed under this regulation.

(3) This regulation has effect subject to regulations 116 and 117 in relation to the amendment of an approval during its currency by the imposition, revocation or amendment of a condition.

115. Contravention of conditions

A person must not contravene a condition to which an approval of a quarantine facility is subject.

Penalty: a fine of $20 000.

Division 3 — Amendment, suspension or revocation of approval

116. Revocation, suspension or amendment of approval

(1) The Director General may revoke or suspend an approval of a quarantine facility if —

(a) the Director General is satisfied that there has been a breach of any of the conditions to which the approval is subject; or

(b) the Director General is satisfied that the person in whose name the quarantine facility is approved is not complying with a pest control notice or a pest keeping notice given in relation to declared pests kept at the facility; or

(c) the Director General is satisfied that allowing the approval to remain in force would constitute an unacceptable biosecurity risk; or

(d) information contained in or supporting the application for the approval was false or misleading in a material respect; or

(e) the Director General is satisfied that there are other relevant reasons why the approval should be revoked or suspended.

(2) The Director General may amend an approval of a quarantine facility —

(a) as mentioned in regulation 114; or

(b) for formal or clerical reasons; or

(c) in conformity with an exemption conferred under the Act; or

(d) subject to regulation 113, to extend the duration of the approval; or

(e) if the Director General is satisfied that there are other relevant reasons why the approval should be amended.

(3) Before amending, revoking or suspending an approval of a quarantine facility under subregulation (2)(a) or (e) the Director General must give the person in whose name the quarantine facility is approved a written notice under this regulation.

(4) The notice must —

(a) state details of the proposed action; and

(b) invite the person to make representations to the Director General to show why the action should not be taken; and

(c) state the period (at least 28 days after the notice is given to the person) within which representations may be made.

(5) The representations must be made in writing.

(6) The Director General may take the proposed action —

(a) at any time after the person gives the Director General written notice that the person does not intend to make any representations or any further representations; or

(b) if such notice is not given, after the end of the period stated in the notice within which representations may be made.

(7) The Director General must consider any representations properly made by the person.

(8) The Director General must give the person written notice of any amendment, revocation or suspension of the approval of the quarantine facility.

(9) Without limiting subregulation (8), notice of an amendment can be given in the form of a revised approval.

117. Immediate amendment or suspension of approval

(1) This regulation applies, despite regulation 116, if the Director General considers it necessary in the public interest to immediately amend or suspend an approval of a quarantine facility, whether or not any action has been taken or commenced under regulation 116 in relation to the approval.

(2) The Director General may, by written notice given to the person in whose name a quarantine facility is approved, immediately suspend the approval until the earlier of the following —

(a) the time at which the Director General informs the person of the Director General's decision under regulation 116;

(b) the end of the period of 90 days after the notice is given to the person under this regulation.

(3) The Director General may, by written notice given to the person in whose name a quarantine facility is approved, immediately amend the approval.

(4) The notice under this regulation must state that the person to whom the notice is given may make written representations to the Director General about the suspension or amendment.

(5) The person to whom the notice is given may make written representations to the Director General about the suspension or amendment, and the Director General must consider the representations.

(6) The Director General may revoke the suspension at any time, whether or not in response to any written representations made to the Director General.

118. Amendment, suspension or surrender on application

(1) A person in whose name a quarantine facility is approved may apply to the Director General to —

(a) amend the approval; or

(b) suspend the approval for a time specified in the application; or

(c) surrender the approval.

(2) An application to amend, suspend or surrender a permit must —

(a) be made in the form and in the manner approved by the Director General; and

(b) be accompanied by the appropriate fee, if any, determined under Part 10; and

(c) be supported by any documents and information required by the Director General.

(3) After considering an application under subregulation (1) and the reasons for which it is made, the Director General may by written notice —

(a) grant the application; or

(b) refuse the application.

(4) If the Director General decides to refuse an application under subregulation (3), the Director General must give the applicant written notice of the decision and the reasons for the decision.

(5) The amendment, suspension or surrender of an approval under this regulation is effected by written notice given to the applicant.

(6) Regulation 116 does not apply in the case of an amendment, suspension or surrender under this regulation.

Division 4 — Closure notices

119. Closure notices

(1) In this regulation —

relevant place means a place that has been approved as a quarantine facility;

specified means specified by the Director General in the closure notice concerned.

(2) If the Director General considers on reasonable grounds that, as a result of anything that has been done or has happened at an approved quarantine facility before the expiry, suspension or revocation of the approval of the facility, ongoing management is or will be required at the relevant place following that expiry, suspension or revocation, the Director General may cause a notice (a ***closure notice***) to be given in respect of the relevant place.

(3) If the approval is still in force, the closure notice is to be given to the person in whose name the quarantine facility is approved.

(4) If the approval is not still in force, the closure notice is to be given to the person in whose name the quarantine facility was approved or to the owner or occupier of the relevant place.

(5) If a person who is the owner of the relevant place is not given the closure notice under subregulation (3) or (4), a copy of the notice must be given to that person.

(6) If a person who is the occupier of the relevant place is not given the closure notice under subregulation (3) or (4), a copy of the notice must be given to that person.

(7) A closure notice may require the person to whom it is given to do either or both of the following in relation to the relevant place —

(a) take specified action with respect to the place or declared pests at the place;

(b) report on specified matters in a specified form at specified times.

(8) A closure notice must specify —

(a) the name and address of the person to whom it is given; and

(b) the reason for which it is given; and

(c) a description of the quarantine facility and the location of the quarantine facility sufficient to identify both; and

(d) the things referred to in subregulation (7) that are required to be done; and

(e) the period, if any, within which the things are to be done; and

(f) that failure to comply with the notice could result in a fine, the Director General taking remedial action under regulation 133, or both.

(9) A person who is given a closure notice must comply with any requirement specified in the notice.

Penalty for an offence under subregulation (9): a fine of $20 000.

120. Revocation or amendment of closure notice

The Director General may by notice in writing given to a person given a closure notice revoke the closure notice or amend it —

(a) by extending the period within which a requirement specified in the notice is to be complied with if the Director General is satisfied that the circumstances of the case justify such an extension; or

(b) by revoking or amending any requirement specified in the notice.

Division 5 — Review

121. Review

(1) In this regulation —

reviewable decision means a decision of the Director General —

(a) to refuse to approve, or renew an approval of, a quarantine facility; or

(b) to impose a condition on an approval of a quarantine facility; or

(c) to amend an approval of a quarantine facility; or

(d) to revoke or suspend an approval of a quarantine facility; or

(e) to refuse an application under regulation 118; or

(f) to give a closure notice under regulation 119; or

(g) to amend a closure notice under regulation 120.

(2) A person aggrieved by a reviewable decision may apply to the State Administrative Tribunal for a review of the decision.

Division 6 — Miscellaneous

122. Transfer of approval

(1) In this regulation, transfer of the approval of a quarantine facility means amendment of the approval by substituting the name of the transferee for that of the person who holds the approval.

(2) The approval of a quarantine facility cannot be transferred except with the consent of the Director General.

(3) An application for consent must be made by the person wishing to hold the approval after the transfer.

(4) Regulations 107 to 110 apply in relation to an application for consent to the transfer of approval of a quarantine facility as if the application were an application for approval.

123. Alteration of quarantine facility

(1) A person must not alter any part of the structure of an approved quarantine facility that is specifically detailed in the approval other than in accordance with the approval of the Director General.

Penalty: a fine of $20 000.

(2) A person in whose name a quarantine facility is approved may apply to the Director General for approval to alter the structure of the facility.

(3) The application must be —

(a) made to the Director General in the approved manner and form; and

(b) accompanied by plans and specifications for the proposed alteration; and

(c) accompanied by the appropriate fee, if any, determined under Part 10; and

(d) supported by any documents and information required by the Director General.

(4) The Director General may grant approval to alter the structure of a quarantine facility if satisfied that the quarantine facility as altered will comply with the conditions subject to which the facility was approved.

124. Falsely holding out

A person must not hold himself or herself out as being a person in whose name a quarantine facility is approved if the quarantine facility has not been approved in the name of that person.

Penalty: a fine of $20 000.

Part 10 — Fees, charges and costs

125. Fees and charges

(1) The Director General may determine —

(a) the fees and charges that are payable in respect of the following —

(i) an application for the issue, grant, renewal, amendment or surrender of an authorisation;

(ii) the issue, grant, renewal or amendment of an authorisation;

(iii) verification of compliance with conditions imposed under an authorisation;

(iv) inspections, assessments and examinations that are made or conducted on an application for the issue, grant, renewal, amendment or surrender of an authorisation;

(v) inspections, assessments, examinations, tests, analyses, treatments, searches, monitoring or control measures made, conducted or provided under or for the purposes of the Act;

(vi) other costs associated with the approval and control of facilities operating pursuant to an authorisation;

and

(b) if not otherwise specified by or under the Act, the person or body who or which is liable to pay that fee; and

(c) if not otherwise specified by or under the Act, when the fee is payable.

(2) The Director General may also require an applicant for an authorisation to pay any reasonable costs and expenses incurred by the Director General in considering the application, including, for example, costs and expenses of making inquiries and obtaining information or documents about whether the applicant meets the criteria for the authorisation.

(3) If not otherwise specified by or under the Act, a fee or charge determined under subregulation (1)(a) is to be paid in accordance with subregulation (1)(c) by the person or body determined under subregulation (1)(b).

(4) The Director General is to publish any determination under subregulation (1) in the *Gazette.*

(5) The Director General's determination may provide for —

(a) a set fee or charge in connection with the performance of a particular function; or

(b) the method of calculating the fee or charge.

(6) The fee or charge must be determined according to the reasonable costs of performing the function to which the fee or charge relates or reasonable expenditure that is relevant to the scheme under which the function is performed.

126. Reduction, waiver or refund of fees and charges

The Director General may waive the payment of, or reduce or refund, a fee or charge determined under these regulations, either generally or in a particular case.

[Regulation 126 amended: Gazette 6 Sep 2019 p. 3195.]

127. Recovery of unpaid fees and charges

Any unpaid fee or charge determined under these regulations is a debt due to the State and may be recovered by action in a court of competent jurisdiction.

128. Recovery of costs of remedial action and other costs and expenses incurred under Act

(1) In this regulation —

remedial action means remedial action in accordance with section 94 taken under —

(a) section 38 or 87; or

(b) regulation 133.

(2) Any costs incurred in taking remedial action —

(a) are a debt due to the State by the person required to comply with the notice, direction or other requirement in respect of which the remedial action is taken (and if more than one person is required to comply, by them jointly and each of them severally); and

(b) may be sued for and recovered in a court of competent jurisdiction.

(3) The Director General may by written notice require the owner of an organism, potential carrier or other thing to pay reasonable costs and expenses incurred in, or in relation to, inspecting, seizing, removing, keeping, treating, destroying or otherwise dealing with the organism, potential carrier or other thing under the Act.

(4) The Director General may refuse to deliver possession of an organism, potential carrier or other thing until the costs and expenses required to be paid under subregulation (3) have been paid.

(5) Any costs and expenses required to be paid under subregulation (3) are a debt due to the State and may be recovered from the owner of the organism, potential carrier or other thing by action in a court of competent jurisdiction.

(6) This regulation applies whether or not the person liable to pay the costs or expenses has been proceeded against and convicted of an offence under the Act.

129. Evidence as to fees, costs and expenses

(1) In this regulation —

specified, in relation to a statement, means specified in the statement.

(2) In any proceedings to recover fees, costs or expenses referred to in these regulations a statement apparently signed by the Director General as to any of the following matters is, in the absence of evidence to the contrary, taken to be proved —

(a) that at a specified date a specified fee, or a specified amount of costs or expenses, has not been paid;

(b) that any specified costs and expenses were reasonably and lawfully incurred under the Act.

Part 10A — Industry funding schemes

[Heading inserted: SL 2020/255 r. 37.]

Division 1 — Appointments committee and review panel

[Heading inserted: SL 2020/255 r. 37.]

129A. Terms used

In this Division —

appointments committee means the appointments committee established by regulation 129B(1);

full participant means —

(a) a full participant as defined in the *Biosecurity and Agriculture Management Industry Funding Scheme (Cattle) Regulations 2010* regulation 3; or

(b) a full participant as defined in the *Biosecurity and Agriculture Management Industry Funding Scheme (Grains) Regulations 2010* regulation 3; or

(c) a full participant as defined in the *Biosecurity and Agriculture Management Industry Funding Scheme (Sheep and Goats) Regulations 2010* regulation 3;

grower has the meaning given in the *Biosecurity and Agriculture Management Industry Funding Scheme (Grains) Regulations 2010* regulation 3;

GSH industry has the meaning given in the *Biosecurity and Agriculture Management Industry Funding Scheme (Grains) Regulations 2010* regulation 3;

Industry Management Committee means —

(a) the Cattle Industry Funding Scheme Management Committee established by the *Biosecurity and Agriculture Management Industry Funding Scheme (Cattle) Regulations 2010* regulation 8; or

(b) the Grains, Seeds and Hay Industry Funding Scheme Management Committee established by the *Biosecurity and Agriculture Management Industry Funding Scheme (Grains) Regulations 2010* regulation 8; or

(c) the Sheep and Goat Industry Funding Scheme Management Committee established by the *Biosecurity and Agriculture Management Industry Funding Scheme (Sheep and Goats) Regulations 2010* regulation 8;

participant means —

(a) a participant as defined in the *Biosecurity and Agriculture Management Industry Funding Scheme (Cattle) Regulations 2010* regulation 3; or

(b) a participant as defined in the *Biosecurity and Agriculture Management Industry Funding Scheme (Grains) Regulations 2010* regulation 3; or

(c) a participant as defined in the *Biosecurity and Agriculture Management Industry Funding Scheme (Sheep and Goats) Regulations 2010* regulation 3;

review panel means the review panel established by regulation 129D(1);

Scheme means —

(a) the scheme constituted by the *Biosecurity and Agriculture Management Industry Funding Scheme (Cattle) Regulations 2010* Part 4; or

(b) the scheme constituted by the *Biosecurity and Agriculture Management Industry Funding Scheme (Grains) Regulations 2010* Part 4; or

(c) the scheme constituted by the *Biosecurity and Agriculture Management Industry Funding Scheme (Sheep and Goats) Regulations 2010* Part 4.

[Regulation 129A inserted: SL 2020/255 r. 37.]

129B. Appointments committee established

(1) An appointments committee is established to advise on the appointment of members of —

(a) the Industry Management Committees; and

(b) the review panel.

(2) The appointments committee must consist of at least 2 persons appointed by the Minister.

(3) The Minister must appoint —

(a) at least 1 member of the appointments committee with the agreement of the Western Australian Farmers Federation (Inc); and

(b) at least 1 member of the appointments committee with the agreement of the Pastoralists and Graziers Association of Western Australia (Inc).

(4) Every person who is appointed to the appointments committee other than under subregulation (3) must be a person who, in the opinion of the Minister —

(a) is familiar with the interests of farmers, or has knowledge and experience enabling that person to understand those interests; or

(b) has a financial interest in the agricultural sector of the economy of the State; or

(c) has extensive or special experience in the agricultural sector of the economy of the State.

[Regulation 129B inserted: SL 2020/255 r. 37.]

129C. Appointments committee member term of office and remuneration

(1) On the appointment of a member of the appointments committee, the Minister must —

(a) specify that the member is appointed for the purpose of advising on a particular appointment under —

(i) the *Biosecurity and Agriculture Management Industry Funding Scheme (Cattle) Regulations 2010* regulation 9; or

(ii) the *Biosecurity and Agriculture Management Industry Funding Scheme (Grains) Regulations 2010* regulation 9; or

(iii) the *Biosecurity and Agriculture Management Industry Funding Scheme (Sheep and Goats) Regulations 2010* regulation 9; or

(iv) regulation 129D;

or

(b) set a term of office, not exceeding 3 years, for that member.

(2) A member of the appointments committee ceases to hold office —

(a) in the case of a member appointed for the purpose of advising on a particular appointment — when that appointment has been made; and

(b) in the case of a member for whom a term of office has been set — on the expiry of that term of office; and

(c) in any case —

(i) upon retiring from office by written notice to the Minister; or

(ii) upon being removed from office by the Minister by written notice; or

(iii) upon death.

(3) A member of the appointments committee whose term of office expires may, if qualified for appointment under regulation 129B(3) or (4), be immediately reappointed.

(4) Each member of the appointments committee must be paid such remuneration and allowances as the Minister, on the recommendation of the Public Sector Commissioner, determines in the case of that member.

[Regulation 129C inserted: SL 2020/255 r. 37.]

129D. Review panel established

(1) A review panel is established for the Schemes.

(2) The review panel must consist of at least 3 persons appointed by the Minister after consulting, and taking account of, the views of the appointments committee.

(3) Subject to subregulation (4), each person appointed by the Minister to be a member of the review panel must be a full participant.

(4) The Minister may appoint a person who is not a full participant to be a member of the review panel if —

(a) in the opinion of the Minister, the person appointed —

(i) is familiar with the interests of owners as defined in the *Biosecurity and Agriculture Management Industry Funding Scheme (Cattle) Regulations 2010* regulation 3, or has knowledge or experience enabling that person to understand those interests; or

(ii) is familiar with the interests of owners as defined in the *Biosecurity and Agriculture Management Industry Funding Scheme (Sheep and Goats) Regulations 2010* regulation 3, or has knowledge or experience enabling that person to understand those interests; or

(iii) is familiar with the interests of growers, or has knowledge or experience enabling that person to understand those interests; or

(iv) has a financial interest in the cattle industry or the GSH industry or the sheep and goat industry; or

(v) has extensive or special experience in the cattle industry or the GSH industry or the sheep and goat industry;

and

(b) immediately after the appointment, there will not be more than 1 member of the review panel who is not a full participant.

(5) A member of an Industry Management Committee must not be appointed to be a member of the review panel.

[Regulation 129D inserted: SL 2020/255 r. 37.]

129E. Review panel member term of office and remuneration

(1) On the appointment of a member of the review panel, the Minister must set a term of office, not exceeding 3 years, for that member.

(2) A member of the review panel ceases to hold office —

(a) on the expiry of the member's term of office; or

(b) upon being appointed to be a member of an Industry Management Committee; or

(c) upon retiring from office by written notice to the Minister; or

(d) upon being removed from office by the Minister by written notice; or

(e) if the member was a participant at the time of appointment — upon the member ceasing to be a participant; or

(f) upon death.

(3) Subject to subregulation (4), a member of the review panel whose term of office expires may be immediately reappointed if qualified for appointment under —

(a) regulation 129D(3) or (4); and

(b) regulation 129D(5).

(4) A member of the review panel who is reappointed in accordance with subregulation (3), and whose term of office set on reappointment expires, may not be reappointed until at least 1 year has passed.

(5) Each member of the review panel must be paid such remuneration and allowances as the Minister, on the recommendation of the Public Sector Commissioner, determines in the case of that member.

[Regulation 129E inserted: SL 2020/255 r. 37.]

129F. Review of applications for compensation and reimbursement

(1) This regulation applies if an applicant receives a notification under —

(a) the *Biosecurity and Agriculture Management Industry Funding Scheme (Cattle) Regulations 2010* regulation 22(4); or

(b) the *Biosecurity and Agriculture Management Industry Funding Scheme (Grains) Regulations 2010* regulation 23(4); or

(c) the *Biosecurity and Agriculture Management Industry Funding Scheme (Sheep and Goats) Regulations 2010* regulation 22(4).

(2) Within 1 month after receiving the notification, the applicant may by notice to the Director General request a review of the application the subject of the notification.

(3) Upon receipt of a request for a review under subregulation (2), the Director General must refer the application to the review panel.

(4) The review panel must review the application and its outcome and must, within 3 months after the referral of the application, either —

(a) confirm the outcome as notified to the applicant; or

(b) vary the outcome as notified to the applicant, in which event, subject to the other provisions of the Scheme, the Director General must make payment in accordance with the outcome of the application as varied by the review panel.

(5) The decision of the review panel under subregulation (4) is final and without appeal.

[Regulation 129F inserted: SL 2020/255 r. 37.]

Division 2 — Transitional provisions for Biosecurity and Agriculture Management Regulations Amendment (Industry Funding Schemes) Regulations 2020

[Heading inserted: SL 2020/255 r. 37.]

Subdivision 1 — Preliminary

[Heading inserted: SL 2020/255 r. 37.]

129G. Terms used

In this Division —

amendment regulations means the *Biosecurity and Agriculture Management Regulations Amendment (Industry Funding Schemes) Regulations 2020*;

commencement day means the day on which the *Biosecurity and Agriculture Management Regulations Amendment (Industry Funding Schemes) Regulations 2020* regulation 37 comes into operation.

[Regulation 129G inserted: SL 2020/255 r. 37.]

Subdivision 2 — Appointments committee

[Heading inserted: SL 2020/255 r. 37.]

129H. Membership of appointments committee

(1) The persons who, immediately before commencement day, are members of the appointments committee established by the *Biosecurity and Agriculture Management Industry Funding Scheme (Cattle) Regulations 2010* regulation 4(1) continue in office as members of the appointments committee established by regulation 129B(1) —

(a) as if they had been appointed by the Minister under regulation 129B(2) on commencement day; and

(b) each with a term of office that is the balance of the person's term of office remaining immediately before commencement day.

(2) The persons who, immediately before commencement day, are members of the appointments committee established by the *Biosecurity and Agriculture Management Industry Funding Scheme (Grains) Regulations 2010* regulation 4(1) continue in office as members of the appointments committee established by regulation 129B(1) —

(a) as if they had been appointed by the Minister under regulation 129B(2) on commencement day; and

(b) each with a term of office that is the balance of the person's term of office remaining immediately before commencement day.

(3) The persons who, immediately before commencement day, are members of the appointments committee established by the *Biosecurity and Agriculture Management Industry Funding Scheme (Sheep and Goats) Regulations 2010* regulation 4(1) continue in office as members of the appointments committee established by regulation 129B(1) —

(a) as if they had been appointed by the Minister under regulation 129B(2) on commencement day; and

(b) each with a term of office that is the balance of the person's term of office remaining immediately before commencement day.

[Regulation 129H inserted: SL 2020/255 r. 37.]

129I. Saving of remuneration and allowances

(1) In this regulation —

repealed provision means —

(a) the *Biosecurity and Agriculture Management Industry Funding Scheme (Cattle) Regulations 2010* regulation 5 repealed by the amendment regulations; or

(b) the *Biosecurity and Agriculture Management Industry Funding Scheme (Grains) Regulations 2010* regulation 5 repealed by the amendment regulations; or

(c) the *Biosecurity and Agriculture Management Industry Funding Scheme (Sheep and Goats) Regulations 2010* regulation 5 repealed by the amendment regulations.

(2) A determination made by the Minister in respect of remuneration and allowances under a repealed provision that is in effect immediately before commencement day continues to have effect, on and after that day, as if it were a determination made by the Minister in respect of remuneration and allowances under regulation 129C(4).

[Regulation 129I inserted: SL 2020/255 r. 37.]

Subdivision 3 — Review panel

[Heading inserted: SL 2020/255 r. 37.]

129J. Membership of review panel

(1) The persons who, immediately before commencement day, are members of the review panel established by the *Biosecurity and Agriculture Management Industry Funding Scheme (Cattle) Regulations 2010* regulation 23(1) continue in office as members of the review panel established by regulation 129D(1) —

(a) as if they had been appointed by the Minister under regulation 129D(2) on commencement day; and

(b) each with a term of office that is the balance of the person's term of office remaining immediately before commencement day.

(2) The persons who, immediately before commencement day, are members of the review panel established by the *Biosecurity and Agriculture Management Industry Funding Scheme (Grains) Regulations 2010* regulation 24(1) continue in office as members of the review panel established by regulation 129D(1) —

(a) as if they had been appointed by the Minister under regulation 129D(2) on commencement day; and

(b) each with a term of office that is the balance of the person's term of office remaining immediately before commencement day.

(3) The persons who, immediately before commencement day, are members of the review panel established by the *Biosecurity and Agriculture Management Industry Funding Scheme (Sheep and Goats) Regulations 2010* regulation 23(1) continue in office as

members of the review panel established by regulation 129D(1) —

(a) as if they had been appointed by the Minister under regulation 129D(2) on commencement day; and

(b) each with a term of office that is the balance of the person's term of office remaining immediately before commencement day.

[Regulation 129J inserted: SL 2020/255 r. 37.]

129K. Saving of remuneration and allowances

(1) In this regulation —

repealed provision means —

(a) the *Biosecurity and Agriculture Management Industry Funding Scheme (Cattle) Regulations 2010* regulation 23(10) repealed by the amendment regulations; or

(b) the *Biosecurity and Agriculture Management Industry Funding Scheme (Grains) Regulations 2010* regulation 24(10) repealed by the amendment regulations; or

(c) the *Biosecurity and Agriculture Management Industry Funding Scheme (Sheep and Goats) Regulations 2010* regulation 23(10) repealed by the amendment regulations.

(2) A determination made by the Minister in respect of remuneration and allowances under a repealed provision that is in effect immediately before commencement day continues to have effect, on and after that day, as if it were a determination made by the Minister in respect of remuneration and allowances under regulation 129E(5).

[Regulation 129K inserted: SL 2020/255 r. 37.]

129L. Pending reviews

(1) In this regulation —

application means —

(a) an application for a payment under the *Biosecurity and Agriculture Management Industry Funding Scheme (Cattle) Regulations 2010* regulation 19, 20 or 21; or

(b) an application for a payment under the *Biosecurity and Agriculture Management Industry Funding Scheme (Grains) Regulations 2010* regulation 20, 21 or 22; or

(c) an application for a payment under the *Biosecurity and Agriculture Management Industry Funding Scheme (Sheep and Goats) Regulations 2010* regulation 19, 20 or 21;

repealed provision means —

(a) the *Biosecurity and Agriculture Management Industry Funding Scheme (Cattle) Regulations 2010* regulation 23 repealed by the amendment regulations; or

(b) the *Biosecurity and Agriculture Management Industry Funding Scheme (Grains) Regulations 2010* regulation 24 repealed by the amendment regulations; or

(c) the *Biosecurity and Agriculture Management Industry Funding Scheme (Sheep and Goats) Regulations 2010* regulation 23 repealed by the amendment regulations.

(2) Subregulation (3) applies if, before commencement day —

(a) a request for a review of an application is made under a repealed provision; but

(b) the application is not referred to the review panel under the repealed provision.

(3) Regulation 129F applies as if the request had been made under regulation 129F(2).

(4) Subregulation (5) applies if, before commencement day —

(a) an application is referred to a review panel under a repealed provision; and

(b) either —

(i) the review is not completed; or

(ii) the review is completed but the Director General does not make any required payment.

(5) As the case requires —

(a) the review must be completed, and any required payment made, under regulation 129F as if the application had been referred under regulation 129F(3); or

(b) the required payment must be made under regulation 129F as if the review had been completed under regulation 129F.

[Regulation 129L inserted: SL 2020/255 r. 37.]

Part 11 — Miscellaneous

130. SAT review excluded: seizure of perishable things

Section 74(1) does not apply if the thing seized —

(a) is perishable; and

(b) would pose a health, hygiene or biosecurity risk if not destroyed or disposed of under section 73(2)(d)(i) or (ii) before determination of a review under section 74(1).

131. False or misleading information

(1) A person must not do any of the things to which this subregulation applies —

(a) in relation to an application under these regulations; or

(b) in relation to a record required to be kept under these regulations; or

(c) in relation to the compliance, or purported compliance, with any requirement under these regulations to give the Director General or an inspector advice or information.

Penalty: a fine of $20 000.

(2) The things to which subregulation (1) applies are —

(a) making a statement or entry that the person knows is false or misleading in a material particular; or

(b) making a statement or entry that is false or misleading in a material particular, with reckless disregard as to whether or not the statement or entry is false or misleading in a material particular; or

(c) providing, or causing to be provided, information that the person knows is false or misleading in a material particular; or

(d) providing, or causing to be provided, information that is false or misleading in a material particular, with reckless disregard as to whether the information is false or misleading in a material particular.

132. Interference with experiment: offence

(1) In this regulation —

research programme means an experiment or other research programme on or in relation to a declared pest or a potential carrier of a declared pest or potential carrier conducted —

(a) by an officer of the department; or

(b) on behalf of the department, by a person authorised by the Director General.

(2) A person must not destroy, injure, remove or otherwise interfere with any —

(a) mark, sign or device on a declared pest or potential carrier; or

(b) scientific equipment of any nature; or

(c) tape, wire, sheet, card or other record of any description,

which has been or is being or is about to be used for the purpose of a research programme.

Penalty: a fine of $20 000.

(3) A person must not intentionally interfere, or cause interference, in any manner with a research programme.

Penalty: a fine of $20 000.

(4) It is a defence to a charge under subregulation (2) or (3) to show that the accused person was acting with lawful authority.

(5) If an inspector is of the opinion that a person is contravening subregulation (2) or (3), the inspector may take reasonable measures to ensure that the contravention does not continue.

(6) Without limiting subregulation (5), an inspector who finds a person contravening subregulation (2) or (3) may direct that person to do one or more of the following —

(a) to stop any action specified in the direction that is in contravention of subregulation (2) or (3);

(b) to remove from the place where the research programme is being conducted any thing specified in the direction that is being used or is otherwise involved in the contravention by that person of subregulation (2) or (3).

Note for this regulation:

A person who, without lawful excuse, does not comply with a lawful requirement of an inspector commits an offence under section 92.

133. Remedial action

If —

(a) a person referred to in section 30(2) or (3) does not take the control measures required under regulation 27; or

(b) a person does not comply with a requirement of a notice under regulation 36; or

(c) a person does not comply with a direction under regulation 38(2); or

(d) a person does not comply with a requirement of a quarantine notice under regulation 56; or

(e) a person does not comply with a requirement of a quarantine area notice under regulation 60; or

(f) a person does not comply with a direction under regulation 86(2); or

(g) a person does not take the action required to be taken under a condition of approval of a quarantine facility; or

(h) a person does not comply with a requirement of a closure notice under regulation 119,

the Director General may take remedial action in accordance with section 94.

134. Direction may be given orally or in writing

(1) Unless otherwise specified, a direction under these regulations may be given orally or in writing.

(2) A direction given orally must be confirmed in writing within 5 working days after it is given, unless within that period it is complied with or revoked.

(3) Failure to comply with subregulation (2) does not invalidate the direction.

(4) The Director General or an inspector may, by further direction, amend or revoke a direction before effect is given to it.

134A. Information sharing agencies (Act s. 184(1))

For the purposes of paragraph (i) of the definition of ***information sharing agency*** in section 184(1), each of the following is an information sharing agency —

(a) the department of the Public Service principally assisting in the administration of the *Bush Fires Act 1954*;

(b) the department of the Public Service principally assisting in the administration of the *Fire and Emergency Services Act 1998*;

(c) Curtin University established under the *Curtin University Act 1966*;

(d) Edith Cowan University established under the *Edith Cowan University Act 1984*;

(e) Murdoch University established under the *Murdoch University Act 1973*;

(f) the University of Western Australia established under the *University of Western Australia Act 1911*;

(g) a local government, regional local government or regional subsidiary.

[Regulation 134A inserted: SL 2026/26 r. 4.]

135. Publication of information: Act s. 185(1)(b)

For the purposes of section 185 the following matters are prescribed —

(a) information relating to the suspected presence, presence or absence of a declared pest;

(b) information about an area of land, the owner of a plant or animal or any other matter that, in the opinion of the Director General, will assist in the control or management of a declared pest.

Part 12 — Repeal of regulations and transitional provisions

136. Term used: commencement day

In this Part —

commencement day means the day on which these regulations come into operation.

137. Regulations repealed

These regulations are repealed:

(a) *Agriculture and Related Resources (Declared Plants and Restricted Animals) Regulations 1982*;

(b) *Agriculture and Related Resources (Searches for Declared Plants and Animals) Regulations 2003*;

(c) *Agriculture and Related Resources Protection (Declared Animals) Regulations 1985*;

(d) *Agriculture and Related Resources Protection (Fencing) Regulations 1985*;

(e) *Agriculture and Related Resources Protection (Interference with Experiments) Regulations 1980*;

(f) *Agriculture and Related Resources Protection (Poison) Regulations 1983*;

(g) *Agriculture and Related Resources Protection (Property Quarantine) Regulations 1981*;

(h) *Agriculture and Related Resources Protection (Small Hive Beetle) Regulations 2009*;

(i) *Agriculture and Related Resources Protection (Traps) Regulations 1982*;

(j) *Argentine Ant Regulations*;

(k) *Artificial Breeding (Cattle) Regulations 1978*;

(l) *Artificial Breeding (Goats) Regulations 1986*;

(m) *Artificial Breeding (Horses) Regulations 1982*;

(n) *Artificial Breeding (Pig) Regulations 1984*;

(o) *Artificial Breeding (Sheep) Regulations 1983*;

(p) *Cattle Industry Compensation Regulations 1966*;

(q) *Plant Diseases Regulations 1989*;

(r) *Plant Pests and Diseases (Eradication Funds) Regulations 1982*;

(s) *Seeds Regulations 1982.*

138. Fees and expenses

On and from the commencement day —

(a) any fees payable under a regulation repealed under regulation 137 and outstanding on the commencement day are to be regarded as payable under these regulations at the time, and in the manner, in which the fees would have been payable under the repealed regulation and may be recovered accordingly; and

(b) any expenses recoverable under a regulation repealed under regulation 137 and outstanding on the commencement day may be recovered under regulation 128.

Penalty: a fine of $10 000.

139. *Agriculture and Related Resources (Declared Plants and Restricted Animals) Regulations 1982*

On and from the commencement day any notice given under the *Agriculture and Related Resources (Declared Plants and Restricted Animals) Regulations 1982* regulation 7(2) and of effect immediately before the commencement day has effect as if it were a direction given under section 77.

140. *Agriculture and Related Resources Protection (Declared Animals) Regulations 1985*

(1) In this regulation —

repealed regulations means the *Agriculture and Related Resources Protection (Declared Animals) Regulations 1985* repealed under regulation 137(c).

(2) On and from the commencement day —

(a) any permit issued under regulation 4 or 13 of the repealed regulations and of effect immediately before the commencement day has effect as if it were a permit under these regulations;

(b) any application for the issue, renewal or variation of a permit under the repealed regulations that was lodged but not finally dealt with before the commencement day has effect as if it were an application for the issue, renewal or variation of a permit under these regulations;

(c) any application for permission under regulation 20 of the repealed regulations that was made but not finally dealt with before the commencement day has effect as if it were an application for the issue of a permit under these regulations.

141. *Agriculture and Related Resources Protection (Fencing) Regulations 1985*

(1) In this regulation —

repealed regulations means the *Agriculture and Related Resources Protection (Fencing) Regulations 1985* repealed under regulation 137(d).

(2) Any consent given for the purposes of regulation 5 or 8(d) of the repealed regulations and of effect immediately before the commencement day has effect as if it were the consent of the Director General under regulation 48 of these regulations.

(3) Any permission given for the purposes of regulation 10 of the repealed regulations and of effect immediately before the commencement day has effect as if it were the consent of the Director General under regulation 51 of these regulations.

142. ***Agriculture and Related Resources Protection (Property Quarantine) Regulations 1981***

(1) In this regulation —

repealed regulations means the *Agriculture and Related Resources Protection (Property Quarantine) Regulations 1981* repealed under regulation 137(g).

(2) On and from the commencement day —

(a) a quarantine notice served under regulation 3 of the repealed regulations and of effect immediately before the commencement day has effect as if it were a quarantine notice given under regulation 56 of these regulations;

(b) any application for approval made under regulation 7 of the repealed regulations and not determined before the commencement day is taken to be an application under regulation 67 of these regulations;

(c) any approval given under regulation 7 of the repealed regulations and of effect immediately before the commencement day has effect as if it were an approval given under regulation 67 of these regulations;

(d) any general exemption granted under regulation 9 of the repealed regulations and of effect immediately before the commencement day has effect as if it were a general exemption granted under regulation 71 of these regulations;

(e) any declaration of a property quarantine area under regulation 10 of the repealed regulations and of effect immediately before the commencement day has effect as if it were a declaration of a quarantine area under regulation 60 of these regulations.

143. *Agriculture and Related Resources Protection (Small Hive Beetle) Regulations 2009*

(1) In this regulation —

repealed regulations means the *Agriculture and Related Resources Protection (Small Hive Beetle) Regulations 2009* repealed under regulation 137(h).

(2) On and from the commencement day —

(a) any authorisation given under regulation 5 of the repealed regulations and of effect immediately before the commencement day has effect as if it were a permit under regulation 19(3)

(b) any notice given under regulation 6 of the repealed regulations and of effect immediately before the commencement day has effect as if it were a notice under regulation 19(4);

(c) any notice given under regulation 8(3) of the repealed regulations and of effect immediately before the commencement day has effect as if it were a notice under regulation 87(3);

(d) any direction given under regulation 9 of the repealed regulations and of effect immediately before the commencement day has effect as if the monitoring programme were a prescribed control measure under section 30;

(e) any direction given under regulation 10 of the repealed regulations and of effect immediately before the commencement day has effect as if it were a direction under section 77;

(f) any report given under regulation 12 of the repealed regulations has effect as if it were a report under section 26.

144. *Agriculture and Related Resources Protection (Traps) Regulations 1982*

(1) In this regulation —

repealed regulations means the *Agriculture and Related Resources Protection (Traps) Regulations 1982* repealed under regulation 137(i).

(2) On and from the commencement day any permit given under regulation 6 of the repealed regulations and of effect immediately before the commencement day has effect as if it were a permit under regulation 45 of these regulations.

145. *Plant Diseases Regulations 1989*

(1) In this regulation —

repealed regulations means the *Plant Diseases Regulations 1989* repealed under regulation 137(q).

(2) On and from the commencement day any approval given under the repealed regulations and of effect immediately before the commencement day has effect as if it were a permit under these regulations, and any conditions imposed on the approval have effect as if they were conditions on the permit.

Part 13 — Repealed Acts: transitional provisions

146. *Agriculture and Related Resources Protection Act 1976*

(1) In this regulation —

commencement day means the day fixed by proclamation under the *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007* section 27 as the day on which the *Agriculture and Related Resources Protection Act 1976* Part V is repealed;

repealed section means a section of the *Agriculture and Related Resources Protection Act 1976* repealed under the *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007* section 27.

(2) On and from the commencement day —

(a) any notice given under repealed section 48 in respect of a declared pest and of effect immediately before the commencement day has effect as if it were a report under section 26;

(b) any notice given under repealed section 50 and of effect immediately before the commencement day has effect as if it were a pest control notice;

(c) any notice published under repealed section 68 and of effect immediately before the commencement day has effect as if it were a notice published under regulation 43;

(d) any animal or thing seized or detained under repealed section 73, 76 or 82 is to be taken to have been seized or detained under section 73;

(e) any notice given under repealed section 74 has effect as if it were a notice given under regulation 75(4);

(f) any permit granted under repealed section 77 or 80(2) and of effect immediately before the commencement day has effect as if it were a permit mentioned in regulation 9(1)(a).

147. *Plant Diseases Act 1914*

(1) In this regulation —

commencement day means the day on which the *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007* section 62 comes into operation;

repealed Act means the *Plant Diseases Act 1914* repealed under the *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007* section 62.

(2) On and from the commencement day —

(a) any plant or potential carrier detained under section 6A of the repealed Act may be detained until the fees payable in respect of the inspection are paid under regulation 138, and failing payment the plant or potential carrier may be disposed of and the proceeds appropriated or transmitted in accordance with that section;

(b) any expenses recoverable under the repealed Act and outstanding on the commencement day may be recovered under regulation 128;

(c) any notice given under section 10 of the repealed Act in respect of a declared pest has effect as if it were a report under section 26;

(d) any notice published under section 12 or 15 of the repealed Act and of effect immediately before the commencement day has effect as if it were a quarantine area notice under regulation 60;

(e) any requisition made under section 14 or notice given under section 16 or 18 of the repealed Act and of effect immediately before the commencement day has effect as if it were a direction under section 77;

(f) any notice given under section 22(1)(a) of the repealed Act and of effect immediately before the commencement day has effect as if it were a direction under regulation 86(1);

(g) any private inspection and treatment premises registered under section 22B of the repealed Act immediately before the commencement day is to be taken to be an approved quarantine facility;

(h) any notice given under section 23 of the repealed Act and of effect immediately before the commencement day has effect as if it were a direction under section 67(1)(e), (f) or (g) as the case requires.

Schedule 1 — Stock

[r. 3]

Column 1 Item	Column 2 Common name of animal	Column 3 Scientific name of animal
1	Buffalo including buffalo cattle hybrids	*Bubalus* spp.
2	Camel	*Camelus* spp.
3	South American camelids	*Lama* spp., *Vicugna* spp.
4	Cattle including cattle buffalo hybrids	*Bos* spp.
5	Deer and any hybrids	*Cervus elaphus canadensus* (elk); *Cervus elaphus* (red); *Cervus timorensis russa* (rusa); *Cervus unicolor* (sambar); *Dama dama* (fallow)
6	Emu	*Dromaius novae-hollandiae*
7	Goat	*Capra* spp.
8	Horse and any hybrids	*Equus caballus*
8A	Donkey and any hybrids	*Equus asinus*
9	Ostrich	*Struthio camelus*
10	Pig	*Sus* spp.

Column 1 Item	Column 2 Common name of animal	Column 3 Scientific name of animal
11	Poultry and any hybrids	*Gallus gallus domesticus* (domestic chickens); *Meleagris gallopavo* (turkeys); *Anser anser* (geese); *Anas* spp.; *Cairina moschata* (ducks); *Numida meleagris* (guinea fowls); *Coturnix japonica* (quails); *Columba livia* (pigeons); *Syrmaticus* spp.; *Lophura* spp.; *Phasianus* spp.; *Chrysolophus* spp.; *Lophophorus* spp. (pheasants and partridges)
12	Sheep	*Ovis* spp.

[Schedule 1 amended: Gazette 27 Jun 2019 p. 2454.]

Notes

This is a compilation of the *Biosecurity and Agriculture Management Regulations 2013* and includes amendments made by other written laws. For provisions that have come into operation see the compilation table.

Compilation table

Citation	Published	Commencement
Biosecurity and Agriculture Management Regulations 2013	5 Feb 2013 p. 465-591	r. 1 and 2: 5 Feb 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 1 May 2013 (see r. 2(b) and *Gazette* 5 Feb 2013 p. 823)
Agriculture and Food Regulations Amendment (Public Health) Regulations 2016 Pt. 2	10 Jan 2017 p. 169-71	24 Jan 2017 (see r. 2(b) and *Gazette* 10 Jan 2017 p. 165)
Agriculture and Food Regulations Amendment (Poisons) Regulations 2016 Pt. 4	17 Jan 2017 p. 404-6	30 Jan 2017 (see r. 2(b) and *Gazette* 17 Jan 2017 p. 403)
Biosecurity and Agriculture Management Regulations Amendment Regulations 2017 Pt. 3	3 Feb 2017 p. 1110-12	4 Feb 2017 (see r. 2(b))
Biosecurity and Agriculture Management Amendment Regulations 2018	14 Sep 2018 p. 3306	1 Jan 2019 (see r. 2(b) and *Gazette* 14 Sep 2018 p. 3305)
Biosecurity and Agriculture Management Regulations Amendment Regulations (No. 2) 2019 Pt. 4	27 Jun 2019 p. 2407-54	28 Jun 2019 (see r. 2(b))
Biosecurity and Agriculture Management Regulations Amendment Regulations 2019 Pt. 2	6 Sep 2019 p. 3185-95	7 Sep 2019 (see r. 2(b))
Biosecurity and Agriculture Management Regulations Amendment (Industry Funding Schemes) Regulations 2020 Pt. 5	SL 2020/255 24 Dec 2020	25 Dec 2020 (see r. 2(b))
Biosecurity and Agriculture Management Amendment Regulations 2021	SL 2021/129 16 Jul 2021	r. 1 and 2: 16 Jul 2021 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Aug 2021 (see r. 2(b) and SL 2021/124 cl. 2)
Agriculture and Food Regulations Amendment (Veterinary Practice) Regulations 2022 Pt. 6	SL 2022/98 17 Jun 2022	18 Jun 2022 (see r. 2(b) and SL 2022/81 cl. 2)

Citation	Published	Commencement
Biosecurity and Agriculture Management Amendment Regulations 2026	SL 2026/26 18 Mar 2026	r. 1 and 2 18 Mar 2026 (see r. 2(a)); Regulations other than r. 1 and 2: 19 Mar 2026 (see r. 2(b)

Defined terms

[This is a list of terms defined and the provisions where they are defined. The list is not part of the law.]

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