

Western Australia

Exotic Diseases of Animals Act 1993

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Exotic Diseases of Animals Act 1993

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Western Australia

Exotic Diseases of Animals Act 1993

An Act to provide for the detection, containment and eradication of certain diseases affecting livestock and other animals, and for incidental matters.

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Exotic Diseases of Animals Act 1993*¹.

2. Commencement

This Act shall come into operation on a date to be fixed by proclamation¹.

3. Objects of Act

The objects of this Act are —

- (a) to safeguard the public in relation to, and to secure —
 - (i) the eradication;
 - (ii) the control;
 - (iii) the prevention of the spread; and
 - (iv) the mitigation of the effects,
of, any exotic disease of animals;
- (b) to establish the obligation of persons to report outbreaks of exotic disease;
- (c) to provide for the quarantining of animals, and of animal products, suspected of infection;
- (d) to provide for —
 - (i) the identification of;
 - (ii) the regulation of movement into, within or from;
and
 - (iii) the cleansing and disinfection of,
any land, place, premises or vehicle suspected to be infected;

- (e) to provide for —
 - (i) the declaration of any land, place or premises as an infected area, a restricted area or a controlled area; and
 - (ii) the declaration of a vehicle as an infected vehicle,as may be necessary;
- (f) to require the destruction of animals, premises or things suspected to be infected and which cannot be effectively disinfected, and for the payment of compensation for that destruction;
- (g) to prohibit or regulate the possession, or use, of any exotic disease agent;
- (h) to make provision for the requisitioning of land, buildings, accommodation, goods and services needed for the purpose of this Act, and for the payment of the expense and for compensation, in relation to such requisitioning;
- (i) to prescribe the functions of inspectors and other officers; and
- (j) to make incidental provision.

4. Interpretation, and application to certain diseases

- (1) In this Act, unless the contrary intention appears —
 - Account* means the Exotic Diseases of Animals (Compensation and Eradication) Account established under section 44;
 - animal* means any mammal (other than man), bird, insect, amphibian, fish, reptile, arthropod, crustacean, mollusc or other member of the animal kingdom, whether alive or dead, and includes —
 - (a) the egg, embryo, ova, or sperm of an animal; and
 - (b) any animal product or other thing from which another animal could be produced;

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animal product means —

- (a) the hide, skin, hair, wool, feathers, shell, horn or hoof of an animal;
- (b) any meat, fat, milk, whey, cream, butter, cheese, eggs or other food or foodstuffs derived from an animal;
- (c) any part of the viscera of an animal;
- (d) any —
 - (i) bone or blood; or
 - (ii) dung, urine or other excrement,of an animal, or any article or substance derived from it;
- (e) any tissue or secretion of any animal;
- (f) any product or biological preparation prepared, made or derived from any animal tissue or animal secretion;
- (g) any manure, fertilizer or other article or substance derived from an animal, whether or not in combination with any other article or substance; and
- (h) any other article, substance or thing that is declared by the Minister, by order published in the *Gazette*, to be an animal product for the purposes of this Act,

but does not include any article, substance or thing so treated as to destroy any exotic disease agent;

boundary variation order means an order made under section 36;

Chief Veterinary Officer means the person holding or acting in the office of Chief Veterinary Officer of the Department;

compensation order means an order made under section 47(1);

controlled area means a place, premises or other area declared under section 40;

controlled area order means an order made under section 40(1);

control order means an order made under section 40(3);

declared area means an infected area, infected vehicle, restricted area, or controlled area;

Department means the Department of Agriculture;

destruction order means an order made under section 28;

Director General means the person holding or acting in the office of Director General of the Department;

disease includes infestation by ticks, lice or other ectoparasites, or endoparasites;

disease control order means an order made under section 41;

disinfected means —

- (a) thoroughly cleansed with an appropriate disinfectant chemical; or
- (b) immersed, heated, irradiated, fumigated or otherwise treated,

so as to defeat infection;

disinfection order means an order made under section 23;

document includes —

- (a) any map, plan, photograph, written or printed matter, computer record or electronic data;
- (b) any other kind of tape, disc, device or medium on or by which information is recorded or stored mechanically, photographically, electronically or otherwise; and
- (c) any other thing so treated in relation to any sounds or visual images that those sounds or visual images are capable, with or without the aid of some other device, of being reproduced from that other thing;

domestic animal means any animal in a domesticated state or under the control of humans, regardless of whether animals of that species are categorized at common law as being of a tame or domestic nature;

dwelling includes any premises or part of any premises that is ordinarily used for residential purposes;

exotic disease means —

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- (a) foot-and-mouth disease, vesicular stomatitis, vesicular exanthema, swine vesicular disease, rinderpest, classical swine fever, African swine fever, rabies, Newcastle disease, avian influenza, bluetongue, or screw-worm fly; and
- (b) any other disease of animals that is, under subsection (2), declared by the Minister to be a disease to which this Act applies;

exotic disease agent means any prion, virus, rickettsia, bacterium, protozoan, fungus, helminth, arthropod insect or other pathogen or organism that is capable of causing an exotic disease in animals;

fittings means —

- (a) any stall, box, cage, enclosure, pen, material or moveable thing used for penning, yarding, containing or restraining any animal;
- (b) any equipment, harness, saddlery, rope, bucket, trough, bedding, litter, utensil or implement used on, in connection with, or in the handling, keeping or storage of animals, animal products or fodder; and
- (c) the clothing and personal effects of any persons attending on, or caring for, an animal;

fodder means any, or any mixture of, water, meal, meat, vegetable, grain or material used for the food of an animal;

free-living animal means any animal that is not a domestic animal;

import restriction order means an order made under section 24;

infected means —

- (a) in relation to an animal, that an officer suspects the animal of suffering from, or being affected by, an exotic disease or of having been exposed, during the preceding 6 months, or in the case of a prescribed disease during the period prescribed for the purpose of this definition in respect of that disease, to the risk of an infection with an exotic disease in that —

- (i) it is, or has been, in a flock, herd, group or shoal;
 - (ii) it is, or was, on any land or place, or in any premises; or
 - (iii) it travelled in any vehicle,
in which there is, or during the relevant period was, an animal suffering from, or affected by, an exotic disease;
and
- (b) in relation to any land, place, premises or other thing, that an officer suspects that an infected animal, an animal product derived from an infected animal or an exotic disease agent may have come into contact with it;

infected area means an area declared under section 29;

infected area order means an order made under section 29;

infected vehicle means a vehicle declared under section 30;

inspector means —

- (a) the Chief Veterinary Officer;
- (b) a Veterinary Inspector;
- (c) a Deputy Veterinary Inspector; or
- (d) an inspector appointed under the *Biosecurity and Agriculture Management Act 2007* section 162;

land means any land whatsoever, whether or not held by a person under any form of tenure, and includes, without in any way limiting the generality of that term, the whole or part of any —

- (a) common, stock route, Aboriginal reserve, land to which the *Conservation and Land Management Act 1984* applies, local government land, land belonging to, or under the care, control, management or supervision of, any person or statutory authority, or public land of whatever description;
- (b) public or private road, right of way, drain or other structure, easement, right or appurtenance adjoining or affecting any land;

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- (c) saleyard, railway trucking yard or platform, slaughterhouse, abattoir, or place for the treatment, storage, movement, final delivery or acceptance of domestic animals or animal products;
- (d) body of water within, or forming part of the boundary of, any land; or
- (e) fishery,

and any holding, establishment or enterprise whatsoever on the land;

local newspaper for any place means a newspaper circulating throughout Western Australia or in a part of the State that includes that place;

local quarantine order means an order made by an officer in relation to specified land, or a specified place, premises or vehicle, under section 19;

officer means —

- (a) the Chief Veterinary Officer;
- (b) a Veterinary Inspector;
- (c) a Deputy Veterinary Inspector;
- (d) an inspector as that term is defined in the *Biosecurity and Agriculture Management Act 2007*, other than a police officer;
- (e) a police officer;
- (f) any person who is appointed to be an officer under section 55; and
- (g) any other officer of the Department authorised by the Director General;

order for restraint means an order of that kind made under section 27;

order for seizure means an order of that kind made under section 27;

owner in relation to any premises, domestic animal or other property, means any person, other than a mortgagee or chargee

not in possession, having or claiming any right, title or interest in the premises, domestic animal or property, and includes the authorised agent of an owner and, in the case of premises, any occupier;

place includes any wharf, pier, stage, landing place, jetty, foreshore, river, lake, inlet or harbour and any other body of water within the territorial limits of the State;

premises includes the whole or any part of any building, erection, structure or hoarding, whether or not it is ordinarily associated with animals or animal products;

restricted area means an area declared under section 34;

restricted area order means an order made under section 34;

restricted area precautions order means an order made under section 39;

undomesticated animal means any feral member of an otherwise domesticated species;

vehicle includes a conveyance of any kind, whether or not self-propelled, and whether or not at the material time capable of being moved or operated, and includes —

- (a) any caravan, trailer, truck, train or other land vehicle;
- (b) any ship, hovercraft, boat, ferry, raft, pontoon, or other water craft; and
- (c) any aeroplane, helicopter, balloon, or other aircraft;

vermin includes any rodent, ferret, fox, starling, rabbit, or other animal which has been introduced into Australia since the year 1788 and is commonly regarded as a noxious pest;

Veterinary Inspector means, in relation to the part of the State or outbreak of disease to which the appointment refers, a person who is, under section 54, appointed to be a Veterinary Inspector, and **Deputy Veterinary Inspector** shall be construed accordingly;

wildlife means any —

- (a) animals that are indigenous to Australia;

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- (b) migratory animals that periodically or occasionally visit Australia; and
 - (c) animals that were introduced into Australia, directly or indirectly, by Aboriginals or other persons before the year 1788.
- (2) The Minister may, by order published in the *Gazette*, declare any disease of animals to be a disease to which this Act applies.

[Section 4 amended by No. 77 of 2006 s. 17; No. 24 of 2007 s. 88(2).]

5. Crown bound by this Act

- (1) This Act binds the Crown in right of the State and, in so far as the legislative power of the Parliament permits, in all its other capacities.
- (2) Nothing in this Act renders the Crown, in right of the State or otherwise, liable to be prosecuted for an offence under this Act.

6. Application of this Act to land, animals etc.

- (1) This Act, in so far as it confers any function that may be exercised in relation to land, applies to all land.
- (2) This Act, in so far as it confers any function that may be exercised in relation to an animal, applies to all animals whatever their status and whether or not —
 - (a) protected or otherwise dealt with under any other Act;
 - (b) animals the care, control, management or supervision of which is vested by any other Act in the Crown or any person; or
 - (c) the property of the Crown or any person.
- (3) It is not necessary to obtain the consent of any person or body, or to meet any requirements other than the requirements of this Act, for —

- (a) any land, place, premises, vehicle or other thing to be declared to be infected, or to be quarantined, under this Act;
 - (b) the validity of any order under this Act —
 - (i) in relation to any land, place, premises, vehicle or other thing; or
 - (ii) for the seizure, confinement, destruction or other control or treatment of, or otherwise affecting, any animal;or
 - (c) the exercise of any power conferred by this Act in relation to —
 - (i) any land, place, premises, vehicle or other thing; or
 - (ii) any animal.
- (4) If land is owned, jointly or as tenants in common or otherwise, by 2 or more persons an order, notice or other document which is under this Act served upon any one of them as owner of the land shall be deemed to have been served upon them all.
- (5) Nothing in this Act authorises wanton cruelty to any animal.
- [(6) deleted]*
- [Section 6 amended by No. 24 of 2007 s. 88(3).]*

Part 2 — Prevention, control and eradication of exotic diseases

Division 1 — Suspicion of infection

7. Suspicion of infection

- (1) For the purposes of this Act —
 - (a) an animal; or
 - (b) any land, place, premises, vehicle or other thing,may reasonably be suspected of suffering from, or being affected by, an exotic disease if there is reason to think that an exotic disease agent may be present in or on it.
- (2) It is not necessary, in order for a person reasonably to suspect that an animal is suffering from or being affected by an exotic disease, for the animal to be exhibiting signs of disease.
- (3) This section does not prejudice any other evidence or consideration by which an officer or other person might reasonably think that any animal, or any land, place, premises, vehicle or other thing, may be infected.

Division 2 — Obligations of persons

8. Notification

A person —

- (a) who —
 - (i) owns or is in charge of, or has in their possession or control, an animal or animal product which the person suspects is infected;
 - (ii) on land owned or occupied by that person, finds any animal wandering at large which the person suspects is infected; or

(iii) as a veterinary surgeon, stock agent or other person dealing with any animal or animal product by way of a profession, trade or business, is consulted in relation to an animal or animal product which he or she suspects is infected;

and

(b) does not, as soon as possible after becoming aware of or suspecting that the animal or animal product is infected, report the fact to an officer by the quickest means of communication available,

commits an offence.

Penalty: \$5 000.

9. Quarantine

(1) A person who owns or is in charge of, or has in their possession or control, an animal or animal product which the person suspects is infected shall, as far as is practicable, keep that animal or animal product separate from animals or animal products not infected.

(2) A person who fails to comply with subsection (1) commits an offence.

Penalty: \$1 000.

(3) A person who breaks down, damages or leaves open a fence, gate or fastening —

(a) that is used for confining any animal, or regulating or preventing the movement of any animal; and

(b) that provides access to, or is within, a declared area,

commits an offence.

Penalty: \$1 000.

10. Possession or administration of exotic disease agents

- (1) A person who —
- (a) is in possession of an exotic disease agent;
 - (b) administers an exotic disease agent, or causes or permits the administration of an exotic disease agent, directly or indirectly, to an animal; or
 - (c) threatens to administer an exotic disease agent, directly or indirectly, to an animal,

commits an offence, subject to subsection (2).

Penalty: \$10 000 or imprisonment for 2 years, or both.

- (2) Subsection (1) does not apply to a person who has the authority of the Chief Veterinary Officer to be in possession of an exotic disease agent and who is acting in accordance with the regulations.

Division 3 — Duties and powers of officers

11. Duties of an officer

- (1) The duties of an officer under this Act include —
- (a) ascertaining whether an exotic disease or suspected exotic disease is present on any land, place, premises or vehicle;
 - (b) tracing any possible spread of an exotic disease or suspected exotic disease; and
 - (c) taking such measures as are authorised by this Act to prevent, control and eradicate the spread of any exotic disease or suspected exotic disease.
- (2) The powers generally conferred by this Act on an officer may be specifically limited —
- (a) by the instrument of the appointment of that person as an officer; or
 - (b) in relation to an officer of a prescribed class,

as evidenced by the identity card issued under this Act.

12. Identity cards

- (1) The Director General shall cause every inspector or other officer authorised under this Act to be issued with an identity card in a form approved by the Chief Veterinary Officer.
- (2) Where, under this Act, a person who is an officer for the purposes of this Act seeks —
 - (a) to enter any land, place or premises; or
 - (b) to board, enter, stop or detain any vehicle,

the identity card evidencing his or her appointment and authorisation must be produced, if requested, for inspection by any person in apparent charge or control of that land, place, premises or vehicle.

- (3) A person who possesses an identity card issued under subsection (1) and who is not, or who ceases to be, an officer for the purposes of this Act must, as soon as practicable, cause the card to be returned to the Director General.
- (4) A person who contravenes subsection (3) commits an offence.
Penalty: \$500.

13. General powers of an officer

- (1) Subject to section 11(2), and for the purposes only of this Act, an officer, with such assistance as the officer thinks necessary, may do any of the following —
 - (a) enter and search any land or place, and any premises or building other than a dwelling;
 - (b) with the consent of the occupier or under the authority conferred by a warrant, enter and search any dwelling;
 - (c) stop, board, enter, search or detain any vehicle;

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- (d) break open and search any box, or other packaging, or any receptacle (including any thing that could be used as a receptacle);
 - (e) muster or order the mustering of any animal, or stop the movement or order the movement of any animal or animal product;
 - (f) remove or cause to be removed to another place any animal, animal product, fodder, fittings, vehicle, receptacle or other thing capable of carrying infection;
 - (g) inspect, count, examine, mark for identification, test, vaccinate, treat, disinfect or take samples of any animal, animal product, fodder or fittings or any receptacle or other thing capable of carrying infection;
 - (h) inspect, examine, test, disinfect, fumigate or take samples from any land, place, premises, or vehicle;
 - (i) notwithstanding the provisions of any other Act, search for, track, mark for identification, test, treat, vaccinate or destroy any free-living animal including wildlife, undomesticated animals, insects or vermin; and
 - (j) on behalf of the Minister and subject to section 49(1), requisition any land, buildings, accommodation, goods or services, including that or those of any agency or department of the Crown in right of the State and of any local government, for such period as in the opinion of the officer is necessary or expedient for the purposes of this Act or until a relevant disease control order ceases to have effect, whichever is the lesser period,
- and may, in accordance with section 17, seek information.
- (2) An officer may, if in the opinion of that officer it is necessary to do so, use reasonable force to prevent from so acting a person who is apparently —
 - (a) contravening or failing to comply with this Act; or

- (b) obstructing or hindering any other person who is complying with this Act or rendering assistance to an officer for the purposes of this Act,

and may place any such person under restraint for such period as may be necessary to prevent the contravention, obstruction or hindrance, or to compel the compliance, or until brought before a justice, as the case may require.

- (3) An officer may request assistance from a police officer, if the officer has reasonable cause to believe that —
- (a) there will be some obstruction in the performance of any duty or in the exercise of any power under this Act; or
- (b) that a person is likely to contravene section 32 or section 33,

and the police officer shall render such assistance as may, in the opinion of the police officer, reasonably be given.

[Section 13 amended by No. 14 of 1996 s. 4.]

14. Requirements under the Act and recovery of costs and expenses

- (1) For the purposes of this Act, where an officer suspects any animal, land, place, premises or thing to be infected the officer may, by notice in writing, require any owner, or person apparently in charge or control, of it to give such reasonable assistance as the officer so requires and specifies in the notice.
- (2) Without limiting the generality of subsection (1) a notice given under that subsection may require the person to whom it is addressed to —
- (a) muster, round-up, yard, confine, draft or otherwise move or handle any animal belonging to or under the charge or control of that person, to cause it to be removed to another place, or to be kept within an escape proof enclosure or cage approved by the officer;

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- (b) provide or repair any enclosure, yard, crush, or other facility the officer requires;
 - (c) produce for inspection any animal or animal product, fodder, fittings, vehicle, receptacle or other thing;
 - (d) vaccinate any animal belonging to or under the charge or control of that person;
 - (e) carry out any disinfection or fumigation, including disinfecting himself or herself, in a manner specified by the officer;
 - (f) permit testing, sampling or treating;
 - (g) restrain, and muzzle, any dogs (whether working or pets); or
 - (h) provide records or other information, in addition to that which is otherwise specifically required by this Act, but which the officer requires for the purpose of assisting in the performance of functions under this Act.
- (3) A notice imposing a requirement under this section —
- (a) must state the time within which the person to whom it is addressed is required to comply; and
 - (b) may specify the manner in which the requirement is to be carried out.
- (4) Where a person fails for any reason to comply with a requirement under this Act the officer may cause to be done that which was required.
- (5) Whether or not the requirement was made under subsection (1), all reasonable costs and expenses incurred by or on behalf of the Crown or an officer as a result of the failure of a person to comply with a requirement lawfully made of that person under this Act may be recovered, in any court of competent jurisdiction, from —
- (a) the person of whom the requirement was made; or

- (b) the person who was responsible for a person's failure to comply with that requirement,

as a debt due and owing to the Crown.

15. Payment for requested assistance, and for the care of animals that can not be moved

- (1) Whether or not a formal requirement under this Act is made, an officer is authorised to request assistance from any person the officer believes to be capable of assisting in the performance of a duty or in the exercise of a power under this Act.
- (2) Where the owner of an animal which is on land belonging to another person is unable to remove the animal due to the provisions of this Act the person entitled to the occupation of the land shall —
 - (a) if so requested, afford the owner of the animal, and any person authorised by the owner, such facilities as the owner may reasonably require for the feeding, tending and management of the animal or for its sale; and
 - (b) if the owner of the animal neglects, or is unable or unwilling, to do so, take such steps as are reasonably necessary for the proper feeding, tending and management of the animal,

during the period for which those provisions have effect and until 7 days after.

- (3) Compensation, by way of remuneration or recoupment of expenses, shall be payable —
 - (a) by the Minister, if an officer requests assistance under subsection (1); or
 - (b) by the owner, if an owner of an animal to which subsection (2) refers is afforded facilities or rendered services under that subsection,

of such an amount as the parties may agree or, in default of agreement, as may be determined by a competent and impartial

person jointly nominated by the parties and approved by the Director General or, if that determination is not accepted, as is recoverable by action in a court of competent jurisdiction.

16. Search warrants

- (1) An officer may apply to a justice of the peace for a warrant authorising the officer to enter —
 - (a) a specified dwelling; or
 - (b) any other specified land, place, premises or vehicle to which the officer has been, or is likely to be, refused admission.
- (2) If it appears to the justice, on such an application supported by evidence on oath, that it is reasonably necessary that the officer should enter the dwelling, land, place, premises or vehicle specified in order to have access to it for the purpose of performing any duty or exercising any power under this Act, the justice may grant a warrant authorising the officer, with such assistance as may be thought necessary, to enter and effect that purpose, and if necessary by force.
- (3) A warrant under this section shall specify a date, not being later than 1 month from the date of issue, upon which the warrant ceases to have effect.

[Section 16 amended by No. 84 of 2004 s. 80.]

17. Power to obtain information

- (1) For the purposes of this Act, an officer —
 - (a) as to the movement of animals, animal products, vehicles, persons or things likely to be capable of carrying infection, or as to any other matter that the officer believes may relate to the occurrence, or the suspicion of the presence, of an exotic disease or be relevant to the prevention, control or eradication of an exotic disease —

- (i) may question any person and require that person to answer the question; and
 - (ii) require any person to produce any record or other document, regardless of its physical form or how it is stored;
 - and
 - (b) may require a person to state his or her name and residential address.
- (2) Where a person is required to produce a document under subsection (1) —
- (a) if the document is in a physical form, or is stored, otherwise than in a readily intelligible format, the officer may require the person to produce the information sought in a legible form or to provide an explanation of the matter recorded;
 - (b) the officer may make copies of, or take extracts from, the document, or may take possession of it for such reasonable period as may be necessary for the purposes of this Act, regardless of its physical form or how it is stored; and
 - (c) if the document required is not produced, the officer may require the person to whom that requirement was made known to state, to the best of the knowledge and belief of that person, where the document is,
- but the officer shall endeavour to ensure that, so far as is practicable, the confidentiality of the information recorded in that document, or of any related information, is not thereby prejudiced.
- (3) On possession of any document being taken under this section, the officer shall cause notice of the taking to be given to the person from whom the document was received.
 - (4) A refusal or failure to comply with a requirement made under this section shall not constitute an offence unless, at the time of

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making the requirement, the person of whom the requirement is made is informed by the officer that a refusal or failure to answer, or to produce the record or other document, will constitute an offence.

- (5) Subject to subsection (4), a person must answer any question the person has been required to answer, or produce any record or other document that the person has been required to produce, under this section but if, before answering the question or producing the record or other document, the person claims that the answer, record or other document might tend to incriminate the person, then neither the question nor the answer, nor any record or other document produced, is admissible in evidence against the person in any criminal proceedings other than proceedings relating to —
- (a) the refusal or failure to answer any question or produce any record or other document; or
 - (b) the furnishing of any answer, record or other document that is false or misleading.
- (6) Subject to subsection (4), a person who —
- (a) refuses, or without reasonable excuse fails, to —
 - (i) answer any question;
 - (ii) produce any record or other document; or
 - (iii) comply with any other obligation relating to information,as required under this section;
 - (b) prevents, hinders or threatens —
 - (i) a person giving information to, being questioned by, or producing any record or other document to, an officer; or
 - (ii) an officer making copies of, or taking extracts from or possession of, any record or other document,or attempts so to do; or

- (c) in response to a requirement under this section gives any answer or information, or produces any record or other document, knowing that it is false or misleading in a material particular,

commits an offence.

Penalty: \$5 000 or imprisonment for 12 months, or both.

18. Offences relating to officers

A person who —

- (a) obstructs, hinders, assaults, bribes or threatens —
 - (i) an officer in the performance of duties or in the exercise of powers under this Act; or
 - (ii) a person assisting any such officer;
- (b) refuses or fails to give reasonable assistance to an officer as required by a notice under section 14; or
- (c) impersonates an officer,

commits an offence.

Penalty: \$2 000.

Division 4 — Local quarantine

19. Local quarantine order

- (1) An officer who suspects that it is necessary to do so for the purpose of preventing the spread of an exotic disease may require, by an order (in this Act referred to as a ***local quarantine order***) given, either verbally or in writing, to the owner, or person in apparent charge or control, of it, that any land, place, premises or vehicle specified in that order be quarantined and kept secure so as to prohibit or restrict the movement of any animal, animal product, fodder or fittings into, within or from that land, place, premises or vehicle.

- (2) Where a local quarantine order affects land, or any place, or premises, the order may prohibit or restrict the movement of any vehicle onto, on or from the land, place or premises.
- (3) A local quarantine order may prohibit or restrict the movement of any receptacle or other thing suspected of being capable of carrying an exotic disease agent, and which is of a kind specified in the order, within or from the land, place, premises or vehicle affected by the order.

20. Notice of local quarantine order

The requirements of any local quarantine order made shall then or thereafter be recorded in writing, and written notice of those requirements, and of any determination of the Chief Veterinary Officer under this Division, shall be given, as soon as is reasonably practicable after the making of the local quarantine order, to the owner, or person in apparent charge or control, of the land, place, premises, vehicle or other thing affected by the order, unless no such person is present and cannot, after such search and inquiry as is reasonable in the circumstances, be located.

21. Duration of local quarantine orders

A local quarantine order has immediate effect on the making of it and, unless sooner revoked, continues to have effect —

- (a) for a period of 40 days; or
- (b) for such other period as the Chief Veterinary Officer may determine and specify in a notice given under section 20.

22. Contravention of local quarantine order

A person who knowingly contravenes a local quarantine order commits an offence.

Penalty: \$5 000 or imprisonment for 12 months, or both.

Division 5 — Disinfection

23. Disinfection orders

- (1) An officer who is required to do so under subsection (2) or who suspects that any place, premises or vehicle may be infected may, by order (in this Act referred to as a **disinfection order**) given, either verbally or in writing, to the owner or person in apparent charge or control of any place, premises or vehicle affected by the order, require that person to disinfect the place, premises or vehicle specified in the order, or any part so specified, any fodder or fittings there, and also any vehicle or other thing there which is suspected of being capable of carrying an exotic disease agent and is so specified.
- (2) When the Chief Veterinary Officer or a Veterinary Inspector so requires an officer shall give a disinfection order to the owner, occupier or person in apparent charge or control of any land, place or premises where —
 - (a) animals or animal products are commonly exposed for sale;
 - (b) animals are commonly exposed for exhibition, parade, racing or any other form of recreation or competition; or
 - (c) animals or animal products are processed or otherwise made fit for human or animal consumption.
- (3) The requirements of a disinfection order given under subsection (1) or subsection (2) shall be recorded in writing, and written notice of those requirements shall be given to the person to whom the disinfection order was given as soon as is reasonably practicable after the giving of the disinfection order.
- (4) An order given under this section or the notice given under subsection (3) may specify also —
 - (a) the manner in which the disinfection is to be carried out; and
 - (b) the time within which effect is to be given to the order.

- (5) A person who fails to comply with a disinfection order commits an offence.

Penalty: \$2 000.

Division 6 — Prohibition of importation

24. Imports prohibited or restricted

- (1) Where the Minister has reasonable cause to believe that an exotic disease exists on any land, or in any place or premises, outside the State, the Minister may, by order published in the *Gazette* (in this Act referred to as an ***import restriction order***), prohibit absolutely, or impose conditions upon, the entry or importation into the State of —
- (a) animals, animal products, fodder or fittings, or other things, identified by the order; and
 - (b) vehicles —
 - (i) of a type usually used for the transportation of animals, animal products, fodder, fittings or things of a kind to which the order refers; or
 - (ii) of a type, or from a locality, identified by the order.
- (2) Without limiting the generality of subsection (1) an import restriction order may —
- (a) restrict the entry or importation into the State of any description of animals, animal products, fodder, fittings or other things except at entry points identified by the order; and
 - (b) specify tests or treatments to be applied to those animals, animal products, fodder, fittings, or other things and to vehicles used in their transport or otherwise suspected of being capable of carrying an exotic disease agent.

25. Duration of import restriction orders

Unless sooner revoked, an import restriction order —

- (a) has effect for a period of 30 days, or such shorter period as the order may specify; and
- (b) may, at the discretion of the Minister and by notice published in the *Gazette*, be extended from time to time for further periods, in each case not exceeding 30 days.

26. Contravention of import restriction order

A person who causes, permits or assists any animal, animal product, fodder, fittings, vehicle or other thing to enter or be imported into the State, knowing that in doing so the person contravenes an import restriction order, commits an offence.

Penalty: \$2 000.

Part 3 — Seizure and destruction

Division 1 — Seizure

27. Seizure for unauthorised movement, or to prevent risk of infection

- (1) An officer may by order (in this Act referred to as an *order for seizure*) given, either verbally or in writing, to the owner, or person in apparent charge or control, of it, cause to be seized and impounded any animal, animal product, fodder or fittings, or any vehicle or other thing —
- (a) that is placed, exposed, moved, imported or sold contrary to a prohibition or restriction imposed by or under this Act;
 - (b) which the officer suspects to be infected or to be a potential carrier of an exotic disease agent; or
 - (c) which is in, or is wandering at large in or near, an infected area, or in or near any other place where the officer suspects that there has been an outbreak of any exotic disease,

and by order in writing (in this Act referred to as an *order for restraint*) may require the owner, or person in apparent charge or control, of it to take such measures as appear to that officer to be necessary to eliminate any risk of infection.

- (2) The requirements of an order made under subsection (1) shall be recorded in writing, written notice of any such requirement shall be given to the owner, or person in apparent charge or control, of the animal or other thing seized or in respect of which measures are to be taken to eliminate risk of infection, and to any other person to whom the order was given, as soon as is reasonably practicable after the giving of the order, and either the order given under subsection (1) or the notice given under this subsection may specify also requirements as to —

- (a) the manner in which any measure required is to be carried out; and
 - (b) the time within which effect is to be given to the order.
- (3) Where an officer suspects an animal wandering at large, being an animal which can not readily be seized, to be infected or otherwise liable to seizure under subsection (1) the officer may destroy the animal, or cause it to be destroyed, forthwith.
- (4) If it is not thought necessary to destroy an animal or other thing seized, it may be released by the officer to anyone appearing to be lawfully entitled to it.
- (5) At the time of release, the officer, by notice in writing, may require measures to be taken to eliminate any risk of infection associated with it.
- (6) Release may also be conditional on payment of any charges incurred, in accordance with the regulations, in connection with the impounding or other measures taken or required to be taken.
- (7) A person who contravenes an order made under subsection (1), or a requirement imposed under subsection (2) or subsection (5), commits an offence.
- Penalty: \$2 000.

Division 2 — Destruction

28. Destruction

- (1) An officer may destroy immediately any animal which the officer has reason to believe to be infected with —
- (a) rabies; or
 - (b) an exotic disease prescribed for the purpose of this subsection.
- (2) Subject, unless subsection (3) applies, to the prior approval of the Chief Veterinary Officer or a Veterinary Inspector, where, in the opinion of an officer, it is necessary to do so for the purpose

of eradicating, controlling or preventing the spread of an exotic disease, the officer may destroy, or by order (in this Act referred to as a ***destruction order***) given, either verbally or in writing, to the owner, or person in apparent charge or control, of it, cause to be destroyed —

- (a) any animal or other thing seized under Division 1;
- (b) any infected animal;
- (c) any premises (other than a dwelling), or any animal product, fodder or fittings, or any receptacle or other thing capable of carrying infection, or any vehicle, which the officer reasonably suspects to be infected and which cannot, or which the officer reasonably believes will not, be effectively disinfected;
- (d) any animal, animal product, fodder or fittings, or any receptacle or other thing, or any vehicle, that is brought, moved or removed into, within or out of an infected area or a restricted area —
 - (i) otherwise than in accordance with a permit given under section 32; or
 - (ii) contrary to a notice, specifying the entry and exit points, issued under section 33, relevant to that area;
- (e) any animal or animal product sold, present, exposed or moved contrary to a control order made under section 40(3); or
- (f) any animal, animal product, fodder or fittings brought into the State in contravention of an import restriction order made under section 24,

whether the animal, animal product or other thing, or the land concerned, is infected or not.

- (3) Where in the opinion of the Chief Veterinary Officer the circumstances require it, the approval of the Chief Veterinary Officer required by subsection (2) may be given in advance,

obviating the need for any reference by an officer before exercising a power conferred by that subsection.

- (4) The requirements of an order made under subsection (2) shall be recorded in writing, written notice of any such requirements shall be given to the owner, or to a person in apparent charge or control, of the animal or thing, and to any other person to whom the destruction order was given, as soon as is reasonably practicable after the giving of the destruction order, and either the order given under subsection (1) or the notice given under this subsection may specify also requirements as to —
- (a) the manner in which any measure required is to be carried out; and
 - (b) the time within which effect is to be given to the order.
- (5) The owner, or the person in apparent charge or control, of an animal, or other thing, which can be destroyed by an officer or is the subject of a destruction order shall, on being so required by the officer, give any assistance the officer may reasonably require in carrying out the destruction.
- (6) A person who contravenes a destruction order under subsection (2), or a requirement imposed under subsection (4) or subsection (5), commits an offence.
Penalty: \$5 000.
- (7) Before the destruction is to be carried out, notice of intention to destroy any animal or thing under this section shall, in so far as that is in the opinion of the officer practicable, be given to the owner or person in apparent charge or control of it, unless such a person —
- (a) is not present; and
 - (b) after such search and inquiry as is reasonable in the circumstances, cannot be located.

Division 3 — Stock on Crown land

[Heading inserted by No. 24 of 2007 s. 88(4).]

28A. Control of stock on Crown land in proclaimed areas

(1) In this section —

Crown land means land other than —

- (a) land alienated from the Crown; or
- (b) land that the Crown has lawfully agreed to alienate; or
- (c) land held under a lease lawfully granted by the Crown;

stock has the meaning given to that term in the *Biosecurity and Agriculture Management Act 2007*.

(2) If it appears to the Governor that it is necessary or expedient to do so for the purpose of preventing the spread of an exotic disease or to eradicate or control an exotic disease in a part of the State, the Governor may by proclamation declare that this section applies to and in relation to the part of the State specified in the proclamation.

(3) If a proclamation made under subsection (2) is in force in relation to a part of the State, then despite any other provision of this Act or any other Act or law to the contrary —

- (a) the property in and right to possession of any stock that are on Crown land in the part of the State specified in the proclamation vest in the Crown; and
- (b) the Minister may give such directions as the Minister thinks fit in relation to the treatment, or disposal, or both the treatment and disposal, of the stock; and
- (c) no compensation is payable by or on behalf of the Crown by reason of the operation of this section.

(4) A proclamation made under subsection (2) —

- (a) must specify the day from which it is to take effect, being a day not earlier than 30 days after the publication of the proclamation in the *Gazette*; and
- (b) may be varied or revoked by further proclamation made by the Governor.

[Section 28A inserted by No. 24 of 2007 s. 88(4).]

Part 4 — Orders as to infected areas, restricted areas and controlled areas

Division 1 — Infected areas and infected vehicles

29. Declaration of infected area

- (1) Where the Minister believes or suspects that an exotic disease or exotic disease agent may be present on or in any land, or any place, premises or other area within the State, the Minister may, by an order in writing (in this Act referred to as an ***infected area order***), declare it, as described in the order, to be an infected area and effect shall be given to the order —
 - (a) immediately the order has been signed; or
 - (b) at such later time as is specified in the order.
- (2) Notice of an infected area order shall be —
 - (a) published in the *Gazette* and in a local newspaper; and
 - (b) given, in writing, to the owner, occupier or person in apparent charge or control of the place, premises or other area of the State to which the declaration relates, unless such a person —
 - (i) is not present; and
 - (ii) after such search and inquiry as is reasonable in the circumstances, cannot be located.

30. Declaration of infected vehicle

If an officer suspects any vehicle to be infected, the officer may, by notice in writing given to the owner or person apparently in charge or control of that vehicle, declare it to be an infected vehicle.

31. Duration of declarations as to infection

- (1) An order declaring an infected area shall continue to have effect until revoked by the Minister, by notice published in the *Gazette*.

- (2) A notice declaring a vehicle infected has effect until revoked by an officer, by notice in writing.

32. Movement within, and entry or exit, subject to permit only

- (1) A person (other than an officer) who —
- (a) enters or leaves any infected area or infected vehicle;
 - (b) causes, permits, or assists any other person to enter or leave any infected area or infected vehicle;
 - (c) brings, moves, takes, or allows any other person to bring, move or take, any animal, animal product, fodder or fittings, receptacle or other thing capable of carrying infection into, within or from any infected area or infected vehicle; or
 - (d) causes, permits or assists any vehicle to enter or leave any infected area,

commits an offence, unless the person is authorised to do so by a permit given under this section and the person complies with all conditions set out in the permit.

Penalty: \$10 000 or imprisonment for 2 years, or both.

- (2) A permit under this section may be given, in writing, by an officer —
- (a) subject to such conditions; and
 - (b) to be effective for such period of time,
- as the officer specifies in the permit.
- (3) An officer may revoke or vary a permit given under this section at any time, by notice in writing to the holder.
- (4) Where a permit given under this section is revoked the holder shall, upon request by an officer, forthwith deliver the revoked permit to an officer.
- (5) Without limiting the generality of subsection (2), an officer may give the permit on the condition that any person to whom, or

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any animal, animal product, fodder, fittings, vehicle or other thing to which, the permit relates —

- (a) shall, before leaving or being taken from the infected area or infected vehicle, be effectively disinfected and cleansed in a manner specified by the officer and to the satisfaction of the officer; and
- (b) shall not go or be brought to any other place or premises where any specified, or specified class or description of, animals, animal products, fodder, fittings or other things are located.

33. Entry to and exit from infected areas

(1) A notice issued by an officer which is —

- (a) published in —
 - (i) the *Gazette*; or
 - (ii) a local newspaper,or both; and
- (b) given, in writing, to the owner or person in apparent charge or control of the infected area, or the infected vehicle, unless such a person —
 - (i) is not present; and
 - (ii) after such search and inquiry as is reasonable in the circumstances, cannot be located,

may prohibit, or impose restrictions on, the movement of persons, animals or things into or from an infected area or infected vehicle.

(2) Where a notice issued by an officer under subsection (1) so requires any movement of —

- (a) any vehicle into or from the infected area; or
- (b) any person, animal, animal product, fodder or fittings, or any other thing of a kind specified in the notice, into or from the infected area or infected vehicle,

to which the notice applies shall be made only through a point specified in the notice.

- (3) A person who —
- (a) goes; or
 - (b) moves any other person, animal, animal product, fodder or fittings or any other thing of a kind specified in a notice issued under subsection (1),

into or from any area or vehicle to which a notice under subsection (1) applies in contravention of that notice, commits an offence.

Penalty: \$10 000 or imprisonment for 2 years, or both.

Division 2 — Restricted areas

34. Declaration of restricted areas

- (1) Where the Minister believes or suspects that there is a possibility that an exotic disease or an exotic disease agent may be —
- (a) present on or in; or
 - (b) likely to be introduced into,

any land, or any place, premises or other area within the State, the Minister may, by an order in writing (in this Act referred to as a **restricted area order**), declare it, as described in the order, to be a restricted area.

- (2) Effect shall be given to a restricted area order —
- (a) immediately the order has been signed; or
 - (b) at such later time, or upon such occurrence or in such circumstances, as may be specified in the order.
- (3) A restricted area order shall specify —
- (a) the species of animals; and

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- (b) any class or description of animals, animal products, fodder, fittings, vehicles or other things,

to and in relation to which it applies.

35. Duration of declaration of restricted area

- (1) Notice of an order declaring a restricted area —
 - (a) shall be published in a local newspaper; and
 - (b) may be published in the *Gazette*.
- (2) A restricted area order shall, subject to section 36, continue to have effect until —
 - (a) where notice of the order was not published in the *Gazette*, the expiry of 14 days after the date on which the order was made; or
 - (b) where notice of the order was published in the *Gazette*, the Minister revokes the order by notice published in the *Gazette*.
- (3) Where an order is made under section 36 varying the boundaries of a restricted area, the variation order has effect for the balance of the period during which the original order declaring the restricted area has effect.

36. Variation of boundaries

- (1) For the purpose of containment of an exotic disease the boundaries of a restricted area, as described in the relevant order, may be varied by the Minister by a subsequent order in writing (in this Act referred to as a ***boundary variation order***).
- (2) The boundaries of a restricted area may be further or otherwise varied, in so far as the area includes any part of a roadway, by moving, in a manner appropriate to the new boundary, any sign placed across the roadway as an indicator of the boundaries.
- (3) Notice of the variation of a restricted area boundary under this section shall —

- (a) be published in a local newspaper; and
 - (b) where notice under section 35 of the order declaring the restricted area was published in the *Gazette*, be published in the *Gazette*.
- (4) A variation made under subsection (1) takes effect on the date of first publication of a relevant notice under subsection (3).
- (5) A variation made under subsection (2) takes effect when the sign is moved to indicate the variation.

37. Movement within, and entry or exit, subject to permit only

- (1) A person (other than an officer) who knows, or has reason to believe, that any land, place, premises or other area has been declared to be a restricted area and who causes or permits —
- (a) the movement of any animal, animal produce, fodder, fittings, vehicle or other thing of a class or description to which the declaration of a restricted area applies into, within or from that area; or
 - (b) the movement of any vehicle carrying, or of a type normally used for the carrying of, any animal, animal product, fodder or fittings to which the declaration of a restricted area applies into, within or from that area,

commits an offence, unless the person is authorised to do so by a permit given under this section and the person complies with all conditions set out in the permit.

Penalty: \$10 000, or imprisonment for 2 years, or both.

- (2) A permit under this section may be given, in writing, by an officer —
- (a) subject to such conditions; and
 - (b) to be effective for such period of time,
- as the officer specifies in the permit.
- (3) An officer may revoke or vary a permit given under this section at any time, by notice in writing to the holder.

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- (4) Where a permit given under this section is revoked the holder shall, upon request by an officer, forthwith deliver the revoked permit to an officer.
- (5) Without limiting the generality of subsection (2), an officer may give the permit on the condition that any person to whom, or any animal, animal product, fodder, fittings, vehicle or other thing to which, the permit relates —
 - (a) shall, before leaving or being taken from the restricted area, be effectively disinfected and cleansed in a manner specified by the officer and to the satisfaction of the officer; and
 - (b) shall not go or be brought to any place or premises where any specified, or specified class or description of, animals, animal products, fodder, fittings or other things are located.

38. Entry to and exit from restricted areas

- (1) A notice issued by an officer which is —
 - (a) published in a local newspaper; or
 - (b) given, in writing, to the owner or person in apparent charge or control of the animal, animal product, fodder, fittings, vehicle or other thing to which the notice is to apply,may prohibit, or impose restrictions on, movement into or from a restricted area.
- (2) Where a notice published, or given to the person, under subsection (1) so requires, any movement into or from the restricted area of any animal, animal product, fodder, fittings, vehicle or other thing —
 - (a) of a class or description specified in the order declaring the restricted area; and
 - (b) to which the notice applies,shall be made only through a point specified in the notice.

- (3) A person who knows, or has reason to believe, that any prohibition or restriction on movement has been imposed in relation to a restricted area and who moves any animal, animal product, fodder, fittings, vehicle or other thing —
- (a) which is specified, or of a class or description specified, in the order declaring the restricted area; and
 - (b) to which a notice under subsection (1) applies,
- into or out of the restricted area in contravention of the notice commits an offence.
- Penalty: \$10 000 or imprisonment for 2 years, or both.

39. Restricted area precautions order

- (1) For the purpose of preventing, controlling or eradicating an exotic disease, the Minister, by order published in the *Gazette* and in a local newspaper (in this Act referred to as a ***restricted area precautions order***), may require any owner or person in apparent charge or control of any, or any specified, animal, animal product, fodder, fittings or vehicle within a restricted area to take measures specified in the order.
- (2) A restricted area precautions order takes effect on publication in the *Gazette*, and may require —
- (a) that animals be mustered or confined in a specified manner, disinfected, vaccinated or treated against infection;
 - (b) that facilities be provided for the inspection, testing, disinfection, vaccination or treatment of animals;
 - (c) that persons, premises, vehicles or things be disinfected; or
 - (d) that other measures be taken, being such as the Minister considers reasonably necessary in the circumstances.
- (3) A person who contravenes a restricted area precautions order commits an offence.
- Penalty: \$10 000 or imprisonment for 2 years, or both.

Division 3 — Controlled areas and control orders

40. Declaration of controlled area

- (1) Where the Minister believes or suspects that it is reasonably necessary for the purpose of preventing, controlling or eradicating an exotic disease, the Minister may, by order published in the *Gazette* and in a local newspaper (in this Act referred to as a **controlled area order**), declare any place, premises or other area within the State, as described in the order, to be an area in relation to which a control order may be made.
- (2) A controlled area order —
 - (a) shall specify —
 - (i) the species of animals; and
 - (ii) any class or description of animals or animal products,to, and in relation to, which a control order may be made;
 - (b) takes effect on publication in the *Gazette*; and
 - (c) continues to have effect until revoked by notice published in the *Gazette*.
- (3) When so directed by the Minister an officer may, with respect to the whole or a specified part of a controlled area, by order in writing (in this Act referred to as a **control order**), prohibit, regulate or control, in relation to such species of animals and such class or description of animal products as are specified in the control order —
 - (a) the holding of markets, fairs, sales, shows, parades, race meetings or any other gathering or competition;
 - (b) the presence or exposure of those animals at any place where animals are exposed for exhibition, or at any parade, race meeting or other form of recreation or competition;

- (c) the sale, presence or exposure of those animals or animal products at places where animals or animal products are exposed for sale or are commonly processed or otherwise made fit for human or animal consumption;
- (d) the presence of those animals or animal products or the exposure of those animals or animal products for sale at any place; and
- (e) the movement of those animals or animal products into, within, or from, the controlled area,

for so long as the controlled area order has effect.

- (4) A person who contravenes a control order commits an offence.
Penalty: \$5 000, or imprisonment for 12 months, or both.
- (5) Notice of a control order —
 - (a) shall be published in a local newspaper; and
 - (b) may be published in the *Gazette*.

Part 5 — Exotic disease control, generally

41. Disease control orders

- (1) The Minister may, by order in writing (in this Act referred to as a *disease control order*), certify that an outbreak or suspected outbreak of an exotic disease has occurred —
- (a) in the State; or
 - (b) on or in any land, place, premises or other area described in the order,

and effect shall be given to the order immediately it has been signed.

- (2) When a disease control order is made, no court proceedings for an injunction, or for any order in the nature of a prerogative writ, or any other legal action may be instituted or continued in any court against the Minister, or an officer or any other person, that would stop, prevent or restrain the Minister, or an officer or any other person from —
- (a) taking, or purporting to take, any action;
 - (b) making any declaration; or
 - (c) otherwise exercising any authority,

under this Act in relation to or in consequence of the outbreak or suspected outbreak to which the order relates.

- (3) Notice of the making of a disease control order shall be published in the *Gazette*.
- (4) Nothing in this Act shall operate to —
- (a) prevent the institution or continuation in any court of an action or proceeding to recover damages in respect of any loss incurred, or damage suffered, as a result of any Act or omission in the negligent exercise, or purported exercise, of a power or authority conferred by this Act; or

- (b) limit or affect any court proceeding, not being a court proceeding of the kind referred to in subsection (2).

42. Protection of Minister, officers and persons assisting

- (1) The Minister, or an officer, is not personally liable for any action, suit or proceeding for, or in relation to, an act done or omitted to be done in good faith in the exercise, or purported exercise, of any power or authority conferred by or under this Act.
- (2) A person who is requested by an officer to provide assistance to that officer in the exercise, or purported exercise, of any power or authority conferred by or under this Act is not personally liable for any action, suit or proceeding for, or in relation to, an act done or omitted to be done in good faith in the provision or purported provision of that assistance.

43. Posting of signs warning of disease control measures

- (1) An officer may place signs, in a form approved by the Chief Veterinary Officer or by a Veterinary Inspector —
 - (a) at or near the boundary of any declared area, to indicate the boundaries of the area or any prohibition or restriction relating to the area;
 - (b) at any border of the State, to indicate that border;
 - (c) at any place thought appropriate, to indicate the effect of any order made under this Act; or
 - (d) along roadways, to indicate that traffic should stop.
- (2) The driver or person in charge of a vehicle approaching a stop sign placed under this Act must —
 - (a) stop the vehicle; and
 - (b) keep the vehicle stationary,for the purpose of enabling an officer to exercise the powers conferred by or under this Act on an officer.

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- (3) Any driver or person who —
- (a) wilfully contravenes subsection (2); or
 - (b) damages, defaces, removes or interferes with any sign placed under the authority conferred by this Act,

commits an offence.

Penalty: \$1 000.

Part 6 — Administration

Division 1 — The Account

[Heading amended by No. 77 of 2006 s. 17.]

44. The Fund

- (1) An account called the Exotic Diseases of Animals (Compensation and Eradication) Account is to be established —
 - (a) as an agency special purpose account under section 16 of the *Financial Management Act 2006*; or
 - (b) with the approval of the Treasurer, at a bank as defined in section 3 of that Act.
- (2) There may, with the approval of the Treasurer, be established under section 16 of the *Financial Management Act 2006* other agency special purpose accounts —
 - (a) permitting separate balances to be held in respect of specific exotic diseases; or
 - (b) for such purposes, in such terms, and comprising such moneys, as may be prescribed.
- (3) The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting of departments apply to and in relation to the Account and any account established for the purposes of subsection (2).
- (4) The administration of the Account and any account established for the purposes of subsection (2) is, for the purposes of section 52 of the *Financial Management Act 2006*, to be regarded as a service of the Department.

[Section 44 amended by No. 77 of 2006 s. 17.]

45. Credits to the Account

There shall be credited to the Account —

- (a) money payable to the State by the Commonwealth or any State or Territory of the Commonwealth, in accordance with any arrangement made (whether before or after the commencement of this Act) by the Commonwealth, or any State or Territory of the Commonwealth, for the prevention, control or eradication of any exotic disease; and
- (b) from time to time —
 - (i) money appropriated by Parliament;
 - (ii) money advanced by the Treasurer for the credit of the Account; and
 - (iii) all other money lawfully received, or made available, given or payable,for the purposes of this Act.

[Section 45 amended by No. 77 of 2006 s. 17.]

46. Payments from the Account

The Account is to be charged with —

- (a) the payment of any expense directly connected with controlling, eradicating or preventing the spread of any exotic disease, other than money payable in respect of the employment of persons who are or would be employed under the *Public Sector Management Act 1994* Part 3 irrespective of any outbreak of an exotic disease;
- (b) the payment of compensation payable by the Minister under this Act, and any costs or expense incidental to determining that compensation;
- (c) the payment of any expense incidental to the administration of the Account;
- (d) the repayment to the Treasurer of any money advanced to the Account by the Treasurer;

- (e) all other expenditure lawfully incurred under and for the purposes of this Act; and
- (f) the distribution or refund, as the Minister may direct, of any surplus money held, or held by way of a separate balance, in the Account.

[Section 46 amended by No. 77 of 2006 s. 17; No. 8 of 2009 s. 55.]

Division 2 — Compensation

47. Compensation for destruction of animals payable only in relation to certain diseases

- (1) Where the Minister, by order published in the *Gazette* (in this Act referred to as a **compensation order**), declares —
 - (a) an exotic disease to be a disease in respect of which compensation for the destruction of an animal shall be payable under this Act; and
 - (b) the class of animal in relation to which that compensation —
 - (i) shall; or
 - (ii) shall not,be paid,

this Division applies, but compensation for the destruction of an animal shall not otherwise be payable if it is carried out in the lawful exercise of a function under this Act.

- (2) An order made under subsection (1) takes effect —
 - (a) on publication in the *Gazette*; or
 - (b) as from such earlier date as the order may specify,and continues to have effect until it is revoked.

48. Interpretation of this Division

In this Division, a reference to **property** is a reference to —

- (a) any premises;
- (b) any animal product, fodder or fittings; or
- (c) any vehicle or other thing.

49. Compensation

- (1) Subject to this Division, compensation is payable by the Minister to any person who yields up, affords or supplies anything pursuant to a requisition made under this Act, and to any person who, at that time, had an interest in that thing prejudiced by the requisitioning.
- (2) Subject to this Division, compensation for its destruction is payable by the Minister to the owner of —
 - (a) any domestic animal or any property which, under this Act, is destroyed for the purpose of eradicating, controlling, or preventing the spread of, an exotic disease; and
 - (b) any domestic animal that —
 - (i) was notified, to the Director General or to an inspector, as being affected by, or as having died of, an exotic disease; and
 - (ii) is certified as having died of the exotic disease to which the relevant compensation order relates, by an officer authorised by the Chief Veterinary Officer.

50. Amount of compensation

- (1) Subject to this Division, the amount of compensation payable is —
 - (a) in respect of property or services, the market value at the time of requisition or destruction; and
 - (b) in the case of an animal that died or was destroyed on account of a disease to which a relevant compensation order applies —

- (i) its market value as at the time at which the land where the animal was held was quarantined or at the time when the Director General, or an inspector, was notified that it was affected by, or died of, the disease, whichever is the greater; and
- (ii) subject to the regulations and to the approval of the Director General and of the owner, a further amount representing the difference between the amount paid under subparagraph (i) and the market value at the time quarantine restrictions ceased,

using a method of valuation determined by the Minister.

- (2) In assessing market value for the purposes of this Division any property or animal concerned is to be regarded as not having been affected by, or to have been suffering from, the disease.
- (3) In assessing the market value of an animal or animal product for the purposes of this Division, regard shall be had to the value of comparable animals or animal products at the nearest most recent markets selling animals or animal products of that kind, whether those markets are in the State or in any other State or Territory of the Commonwealth.
- (4) No compensation in respect of the destruction of any animal or property is payable under this Act for any loss of profit, loss occasioned by breach of contract, loss of production or any other consequential loss.

51. Claims

- (1) A claim for compensation under this Division shall be lodged, in the prescribed form and manner, within —
 - (a) 90 days after the requisition, or the destruction or death, giving rise to the claim; or
 - (b) such extended period as the Director General may in a particular case permit.

- (2) If any doubt or dispute arises as to the right or entitlement of a person to receive compensation, the Minister may cause the whole, or any part, of the compensation payable to be retained in the Account until the person to whom it should be paid and the entitlement have been established to the satisfaction of the Director General.
- (3) A person who lodges a claim for compensation knowing that the claim is false or misleading, or who practises or is concerned in any fraudulent act or omission for the purpose of obtaining compensation for that person or for any other person under this Act, commits an offence.

Penalty: \$5 000 or imprisonment for 12 months, or both.

[Section 51 amended by No. 77 of 2006 s. 17.]

52. Reduction of amount claimed for destruction of an animal or property

If a claim for compensation under this Act arising out of the destruction of any domestic animal or property, or the death of any animal, as a result of an outbreak of an exotic disease is lodged and the Director General is satisfied that the person by or on whose behalf the claim is made has been convicted in the State, the Commonwealth or any other State or a Territory of the Commonwealth, of an offence which has caused, or has contributed to, —

- (a) the risk of infection by, or the spread of, that exotic disease;
- (b) the destruction or death of any domestic animal in respect of which the claim is lodged;
- (c) the contamination, or exposure to the risk of contamination, of any property; or
- (d) the destruction of any property in respect of which the claim is lodged,

the Minister may direct that the whole, or such part as the Minister thinks fit, of any compensation otherwise payable

under this Act to that person, or to a partnership of which the person is a member, or to a body corporate of which that person is an executive officer within the meaning of the *Corporations Act 2001* of the Commonwealth, shall not be paid, and effect shall be given to the direction.

[Section 52 amended by No. 10 of 2001 s. 220.]

53. Settlement

- (1) The amount of compensation payable in respect to any requisitioning or the market value of a domestic animal or other property destroyed may be determined by agreement between the claimant and an inspector approved by the Director General.
- (2) In default of agreement, the amount of compensation payable may be determined by a competent and impartial person jointly nominated for the purpose by the Director General and the claimant.
- (3) Nothing in this Division prevents the making or operation of an agreement between the Crown and a person claiming compensation under this Act for the submission of any dispute to arbitration or mediation, where a mutually acceptable agreement so to do has been made within 45 days of the lodging of a claim under section 51.
- (4) Disputed claims for compensation payable under this Act may be recovered by action against the Crown in any court of competent jurisdiction.

Division 3 — Administration

54. Chief Veterinary Officer, and Veterinary Inspectors

- (1) The Chief Veterinary Officer shall be responsible to the Minister for the administration of this Act.
- (2) The Chief Veterinary Officer may, by instrument in writing, appoint —

- (a) a person to be a Veterinary Inspector —
 - (i) for the State; or
 - (ii) in relation to a specified part of the State, or a specified outbreak of disease,
as may from time to time be necessary for the purposes of this Act; and
- (b) such other persons to be Deputy Veterinary Inspectors as are required, each of whom is authorised to carry out any of the functions of a Veterinary Inspector in relation to —
 - (i) the whole of the State; or
 - (ii) the specified part of the State, or the specified outbreak of disease, to which the appointment relates,
as may be provided in the notice published under subsection (3),
each of whom shall comply with such directions as the Chief Veterinary Officer may give.
- (3) Notice of the appointment of a person under subsection (2) shall be published in the *Gazette*.

55. Officers

For the purposes of this Act in relation to the part of the State, or the outbreak of disease, to which the appointment of that Veterinary Inspector relates, a Veterinary Inspector may, by instrument in writing, appoint a person to be an officer, or persons included in a class of persons to be officers, for the purpose of the exercise by that person or those persons of —

- (a) the powers of an officer under this Act; or
- (b) those powers subject to the limitations specified in the instrument.

56. Delegation

- (1) The Minister may, either generally or as otherwise provided by the instrument of delegation, delegate to —
 - (a) the Director General;
 - (b) the Chief Veterinary Officer;
 - (c) a Veterinary Inspector; or
 - (d) a person prescribed by the regulations,all or any of the powers of the Minister under this Act, other than this power of delegation.
- (2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act be deemed to have been exercised by the Minister.
- (3) A delegation under this section does not prevent the exercise of a power by the Minister.

Division 4 — Offences by bodies corporate

57. Penalties for bodies corporate

Where a body corporate is convicted of an offence under this Act, the penalty that the court may impose is a fine not exceeding 5 times the maximum amount that, but for this section, the court could impose as a pecuniary penalty for that offence.

58. Liability of officers for offence by a body corporate

- (1) If a body corporate commits an offence under this Act and it is proved that —
 - (a) the offence was committed with the consent or connivance of an officer of the body corporate; or
 - (b) an officer of the body corporate failed to exercise all such due diligence to prevent the commission of the offence as ought to have been exercised having regard —

- (i) to the nature of the functions of that officer; or
 - (ii) to all the circumstances,
- the officer commits the like offence.
- (2) An officer of a body corporate may be proceeded against and convicted under this section whether or not the body corporate has been proceeded against or convicted under this Act.
 - (3) Nothing in this section affects a liability imposed on a body corporate for an offence committed by the body corporate under this Act.
 - (4) In this section, **officer**, in relation to a body corporate, means —
 - (a) a director, a secretary, or an executive officer within the meaning of the *Corporations Act 2001* of the Commonwealth, of that body corporate;
 - (b) a receiver, or receiver and manager, of property of the body corporate, or any other authorised person who enters into possession or assumes control of property of the body corporate for the purpose of enforcing any charge;
 - (c) an official manager or a deputy official manager of the body corporate;
 - (d) a liquidator of the body corporate; and
 - (e) a trustee or other person administering a compromise or arrangement made between the body corporate and another person or other persons,

and any other person, by whatever name called and whether or not a director of the body corporate, who is concerned, or takes part, in the management of the body corporate.

[Section 58 amended by No. 10 of 2001 s. 220.]

Division 5 — General

59. Repeal, saving and transitional

- (1) Part III of the *Stock Diseases (Regulations) Act 1968* is repealed.
- (2) On the coming into operation of this Act, any subsidiary legislation under the *Stock Diseases (Regulations) Act 1968* then in operation for the purposes of Part III of that Act shall, in so far as not inconsistent with this Act, continue in operation and have effect for the purposes of this Act as if made under this Act.

[*(3) Omitted under the Reprints Act 1984 s. 7(4)(f).*]

60. Regulations

- (1) The Governor may make regulations prescribing all matters that are —
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for giving effect to the objects of this Act.
- (2) In particular, the regulations may make provision —
 - (a) as to the form of any order, notice, or other document that is to be used for the purposes of this Act;
 - (b) as to the regulation of the movement, sale or disposal of animals or animal products suspected of infection;
 - (c) prohibiting or restricting the movement of animals, vehicles and other potential carriers of disease until —
 - (i) a diagnosis of a disease is made or the existence of a disease is disproved;
 - (ii) where a disease is diagnosed, a specified period has elapsed; or
 - (iii) disinfected, or treated against infection, in a prescribed manner;

- (d) requiring persons suspected to have been in contact with an infected animal or animal product, or within an infected area, to submit themselves for disinfection or prescribed treatment;
 - (e) authorising the closing of roads, the erection of barriers and other measures controlling movement to prevent the spread of infection;
 - (f) prohibiting the treatment of infected animals otherwise than by prescribed persons;
 - (g) for the disposal of animals, and any other matter, infected or suspected of being infected;
 - (h) as to the exercise of the power to requisition and as to the payment of compensation for requisitioning;
 - (i) prescribing procedures for the assessment of compensation, and for the valuation of domesticated animals or property destroyed;
 - (j) as to the powers and duties of particular officers or other persons engaged in the administration of this Act; and
 - (k) prescribing penalties, not exceeding a fine of \$5 000, for offences against the regulations.
- (3) The powers conferred by section 10 of the *Stock Diseases (Regulations) Act 1968*, as in force immediately before the coming into operation of the *Biosecurity and Agriculture Management Act 2007*, for the making of regulations with respect to enzootic disease may be exercised under this section with respect to exotic disease as though the provisions of that section were repeated in this section but with respect to exotic disease.

[Section 60 amended by No. 24 of 2007 s. 88(5).]

Notes

- ¹ This is a compilation of the *Exotic Diseases of Animals Act 1993* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Exotic Diseases of Animals Act 1993</i>	33 of 1993	16 Dec 1993	4 Feb 1994 (see s. 2 and <i>Gazette</i> 4 Feb 1994 p. 339)
<i>Local Government (Consequential Amendments) Act 1996</i> s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Corporations (Consequential Amendments) Act 2001</i> s. 220	10 of 2001	28 Jun 2001	15 Jul 2001 (see s. 2 and <i>Gazette</i> 29 Jun 2001 p. 3257 and <i>Cwlth Gazette</i> 13 Jul 2001 No. S285)
Reprint 1: The Exotic Diseases of Animals Act 1993 as at 23 Jan 2004 (includes amendments listed above)			
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 80	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
<i>Financial Legislation Amendment and Repeal Act 2006</i> s. 17	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2 and <i>Gazette</i> 19 Jan 2007 p. 137)
<i>Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007</i> s. 88	24 of 2007	12 Oct 2007	1 May 2013 (see s. 2(2) and <i>Gazette</i> 5 Feb 2013 p. 823)
<i>Statutes (Repeals and Miscellaneous Amendments) Act 2009</i> s. 55	8 of 2009	21 May 2009	22 May 2009 (see s. 2(b))

Defined Terms

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
Account	4(1)
animal	4(1)
animal product	4(1)
boundary variation order	4(1), 36(1)
Chief Veterinary Officer	4(1)
compensation order	4(1), 47(1)
control order	4(1), 40(3)
controlled area	4(1)
controlled area order	4(1), 40(1)
Crown land	28A(1)
declared area	4(1)
Department	4(1)
Deputy Veterinary Inspector	4(1)
destruction order	4(1), 28(2)
Director General	4(1)
disease	4(1)
disease control order	4(1), 41(1)
disinfected	4(1)
disinfection order	4(1), 23(1)
document	4(1)
domestic animal	4(1)
dwelling	4(1)
exotic disease	4(1)
exotic disease agent	4(1)
fittings	4(1)
fodder	4(1)
free-living animal	4(1)
import restriction order	4(1), 24(1)
infected	4(1)
infected area	4(1)
infected area order	4(1), 29(1)
infected vehicle	4(1)
inspector	4(1)
land	4(1)
local newspaper	4(1)
local quarantine order	4(1), 19(1)
officer	4(1), 58(4)
order for restraint	4(1), 27(1)
order for seizure	4(1), 27(1)

Defined Terms

owner	4(1)
place	4(1)
premises	4(1)
property	48
restricted area	4(1)
restricted area order	4(1), 34(1)
restricted area precautions order	4(1), 39(1)
stock	28A(1)
undomesticated animal	4(1)
vehicle	4(1)
vermin	4(1)
Veterinary Inspector	4(1)
wildlife	4(1)