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Plant Quarantine Act 1997

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Plant Quarantine Act 1997

An Act to provide for the quarantine of plants and the control of pests and diseases

[Royal Assent 22 December 1997]

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 - Preliminary

1. Short title

This Act may be cited as the Plant Quarantine Act 1997 .

2. Commencement

This Act commences on a day to be proclaimed.

3. Interpretation

(1) In this Act –

agricultural equipment means any equipment or vehicle used for the culture, harvesting, packing or processing of any plant or plant product;

approved means approved by the Secretary;

approved quarantine place means a place approved as a quarantine place under section 70 ;

control includes eradicate;

control agreement means an agreement made under section 47 ;

control area means an area in respect of which a declaration under section 29 is in force;

disease means –

- (a) any disease of plant or plant product declared under section 9 to be a disease; and
- (b) a disease agent;

disease agent means –

- (a) the whole or part of an organism, being an organism that –
 - (i) may cause a disease; or
 - (ii) if in an attenuated, killed or inactivated form, is capable of causing a disease if non-attenuated or viable; and
- (b) a part of an organism, being a part that may cause disease; and
- (c) a substance that may cause disease;

draft industry control program means the program referred to in section 40 ;

examination includes any assessment, inspection, analysis or test or a combination of assessments, inspections, analyses and tests;

government control program means the program referred to in section 46 ;

industry control program means the program approved under section 41 ;

infected means contaminated or affected by a pest or disease;

infected area means an area in respect of which a declaration under section 23 is in force;

inspector means an inspector appointed under section 49 ;

List A disease means a disease declared under section 11(a) to be a List A disease;

List B disease means a disease declared under section 11(b) to be a List B disease;

List A pest means a pest declared under section 10(a) to be a List A pest;

List B pest means a pest declared under section 10(b) to be a List B pest;

management committee means the committee responsible for implementing an industry control program;

new disease means a disease that –

- (a) is not a List A disease or List B disease; and
- (b) is not known to occur in Tasmania at the relevant time;

new pest means a pest that –

- (a) is not a List A pest or List B pest; and
- (b) is not known to occur in Tasmania at the relevant time;

occupier means a person who –

- (a) occupies land; or
- (b) has the right to use land under any agreement, lease, licence or permit; or
- (c) is in possession of land under a contract for the purchase of the land; or
- (d) is acting on behalf of any person referred to in paragraph (a) , (b) or (c) ;

organism includes micro-organism, parasite, invertebrate, infectious material and genetic material;

owner includes –

- (a) in relation to land, any mortgagee of land in possession of the land; and
- (b) any person acting on behalf of a person referred to in paragraph (a) ; and
- (c) in relation to any prescribed matter, any person apparently responsible or in charge of the matter;

package includes anything –

- (a) in, or by, which a plant or plant product may be contained, wrapped or packed; and
- (b) on which a plant or plant product may be located;

pest means any organism declared under section 8 to be a pest;

place includes any land, road, premises, river, lake or other body of water;

plant means any organism other than an organism within the animal kingdom;

plant product includes –

- (a) the whole or part of any flower, fruit, nut, seed, leaf, bulb, corm, tuber or stem that has been separated from a plant; and
- (b) any dried plant material and timber that has been sawn or dressed;

premises includes any building or structure;

prescribed matter means –

- (a) any plant; and
- (b) any plant product; and
- (c) any new or used package; and
- (d) a vehicle; and
- (e) any new or used agricultural equipment; and
- (f) any soil; and
- (g) any disease agent;

prohibited plant means a plant or species or kind of plant that is declared to be prohibited plant under section 66 ;

prohibited plant product means a plant product that is declared to be prohibited plant product under section 66 ;

protected area means an area in respect of which a declaration under section 35 is in force;

public notice means a notice –

- (a) published in any newspaper or magazine; or
- (b) published in the *Gazette*; or
- (c) broadcast on radio or television; or
- (d) affixed to any premises or fence;

quarantine area means a place in respect of which a declaration under section 17 is in force;

record includes a record or information in electronic format;

restricted plant means a plant or species or kind of plant that is declared to be a restricted plant under section 67 ;

restricted plant product means a plant product declared to be a restricted plant product under section 67 ;

Secretary means the Secretary of the Department of Primary Industry and Fisheries;

sell includes –

- (a) any method of disposition for valuable consideration; and
- (b) barter or exchange; and
- (c) the disposition to an agent for sale on consignment; and
- (d) offering or attempting to sell; and
- (e) receiving or having in possession for sale; and
- (f) exposing for sale; and
- (g) sending, delivering or supplying for sale; and
- (h) causing or permitting to be sold or offered or exposed for sale; and
- (i) disposal by way of raffle, lottery or other game of chance;

soil includes any substance that may be contaminated by any pest or disease;

unknown disease means a disease whose type or cause –

- (a) is not recognisable; or
- (b) is uncertain;

unknown pest means a pest whose type –

- (a) is not recognisable; or
- (b) is uncertain;

used package means any package that contains or contained, or may reasonably be suspected of containing or having contained, any plant or plant product;

vehicle includes aircraft or vessel.

(2) In this Act a reference to a plant includes a reference to any part of the plant.

4. Act binds Crown

(1) This Act binds the Crown in right of Tasmania and, in so far as the legislative power of Parliament permits, in all its other capacities.

(2) The Crown in right of Tasmania is not liable to be prosecuted for an offence against this Act.

5. Act binding on certain persons

This Act is binding on –

(a) a body corporate which is the owner or occupier of any land even though the functions of the body are exercised, or the land is held by the body, on behalf of the Crown; and

(b) the owner and occupier of land even though any estate or interest in the land is vested in the Crown.

6. Reference to land

Land may be referred to, or specified, by reference to –

(a) the entry relating to the land in a valuation roll prepared under the Valuation of Land Act 2001 ; or

(b) maps or aerial photographs; or

(c) any other appropriate unambiguous means.

7. Delegation

(1) The Minister, by instrument in writing, may delegate to the Secretary any of his or her functions or powers under this Act other than this power of delegation.

(2) The Secretary, by instrument in writing, may delegate to a person any of his or her functions or powers under this Act, other than this power of delegation, including a function or power delegated to him or her by the Minister.

(3) An inspector, by instrument in writing and with the written approval of the Secretary, may delegate to a person any of his or her functions or powers under this Act, other than this power of delegation, a function or power delegated to him or her by the Secretary.

PART 2 - Declaration and notification of pests and diseases

Division 1 - Declaration of pests and diseases

8. Declaration of pest

- (1) The Secretary, by public notice, may declare any organism to be a pest for the purpose of this Act.
- (2) The Secretary may amend or revoke a declaration of a pest by public notice.

9. Declaration of disease

- (1) The Secretary, by public notice, may declare a disease that affects or may affect a plant or plant product to be a disease for the purpose of this Act.
- (2) The Secretary may amend or revoke a declaration of a disease by public notice.

10. Declaration of List A and List B pests

- (1) The Secretary, by public notice, may declare –
 - (a) a pest to be a List A pest; or
 - (b) a pest to be a List B pest.
- (2) The Secretary may amend or revoke a declaration of a List A pest or List B pest by public notice.

11. Declaration of List A and List B diseases

- (1) The Secretary, by public notice, may declare –
 - (a) a disease to be a List A disease; or
 - (b) a disease to be a List B disease.
- (2) The Secretary may amend or revoke a declaration of a List A disease or List B disease by public notice.

12. Publication of pests and diseases

The Secretary is to publish in the *Gazette* once in each year –

- (a) a list of all pests declared under section 10 to be List A pests or List B pests; and
- (b) a list of all diseases declared under section 11 to be List A diseases or List B diseases.

Division 2 - Notification requirements

13. Notification of List A pests and diseases

A person who knows, suspects or is reasonably expected to know or suspect that a List A pest or List A disease is present in any plant or plant product must, as soon as possible and in the quickest manner practicable –

- (a) notify an inspector; and
- (b) notify the owner of the plant or plant product if it is reasonable in the circumstances to do so.

Penalty: Fine not exceeding 200 penalty units or a term of imprisonment not exceeding 2 years, or both.

14. Notification of List B pests and diseases

A person who knows, suspects or is reasonably expected to know or suspect that a List B pest or List B disease is present in any plant or plant product must notify an inspector as soon as possible.

Penalty: Fine not exceeding 100 penalty units.

15. Notification of new or unknown pest or disease

A person who knows, suspects or is reasonably expected to know or suspect that a new pest or new disease or an unknown pest or unknown disease is present in any plant or plant product must notify an inspector as soon as possible.

Penalty: Fine not exceeding 100 penalty units.

Division 3 - Possession of pests and diseases

16. Possession of pests and diseases

A person must not have possession of a List A pest, List B pest, List A disease or List B disease without the written permission of the Secretary or an inspector.

Penalty: Fine not exceeding 100 penalty units.

PART 3 - Pest and disease control

Division 1 - Quarantine areas

17. Declaration of quarantine area

- (1) The Secretary, by public notice, may declare a place to be a quarantine area if reasonably satisfied that the place is infected with any pest or disease.
- (2) A declaration of a quarantine area –
 - (a) takes effect on the day on which it is made public; and
 - (b) continues in force until whichever of the following occurs first:
 - (i) the day specified in the notice;
 - (ii) if a day is not so specified, the end of 12 months after the day on which it took effect;
 - (iii) the day on which the notice revoking the declaration is made public.
- (3) The Secretary may amend or revoke a declaration of a quarantine area by public notice.

18. Movement and possession of prescribed matter in quarantine area

A person who is not an inspector must not, except as authorised under a permit in force under section 19 –

- (a) move or cause or allow any prescribed matter to be moved into or out of a quarantine area; or
- (b) be in possession of any prescribed matter that has been moved into or out of a quarantine area.

Penalty: Fine not exceeding 100 penalty units or a term of imprisonment not exceeding 6 months, or both.

19. Application for permit relating to quarantine area

- (1) A person may apply to the Secretary for a permit authorising –
 - (a) the movement into and out of a quarantine area of any prescribed matter of a specified class or type; or
 - (b) the possession of any prescribed matter within that area.
- (2) An application is to be –
 - (a) in an approved form; and
 - (b) accompanied by the prescribed fee.
- (3) The Secretary may –
 - (a) grant the application subject to any conditions the Secretary determines; or
 - (b) refuse to grant it.
- (4) The Secretary may amend or revoke a permit by written notice to the holder of the permit.

20. Directions relating to quarantine area

The Secretary may give the owner or person in charge of a quarantine area directions in relation to –

- (a) the management, maintenance, operation and security of the quarantine area; and
- (b) the handling, keeping, examination, identification and treatment of anything detained in the quarantine area.

21. Secretary may assume control of quarantine area

- (1) The Secretary may assume control of the maintenance, operation and security of a quarantine area if satisfied that it is necessary to do so.
- (2) On assuming control of a quarantine area, the Secretary may appoint a person as manager of the quarantine area.
- (3) The Secretary is to –
 - (a) notify in writing the owner of the quarantine area on assuming control of the quarantine area; and
 - (b) post a notice in the quarantine area stating –
 - (i) that the area is under the control of the Secretary; and
 - (ii) the name of the person who is the manager of the quarantine area.
- (4) The Secretary or the person appointed as manager of the quarantine area may give the owner of the quarantine area or any person on or at the quarantine area directions relating to the management of the quarantine area.

22. Compliance with directions

- (1) A person must comply with any directions given under section 20 or 21 .

Penalty: Fine not exceeding 100 penalty units.

- (2) If a person contravenes a direction, the person giving the direction may –
 - (a) take any necessary action to give effect to the direction; or
 - (b) seize, remove, destroy or dispose of anything to which the direction relates.

Division 2 - Infected areas

23. Declaration of infected area

- (1) The Secretary, by public notice, may declare a place to be an infected area if reasonably satisfied that –
 - (a) a List A pest, List A disease, List B pest or List B disease is present in that area; and
 - (b) the pest or disease is required to be controlled.
- (2) A declaration of an infected area –
 - (a) takes effect on the day on which it is made public; and
 - (b) continues in force until whichever of the following occurs first:
 - (i) the day specified in the notice;
 - (ii) the day on which a notice revoking the declaration is made public.
- (3) The Secretary may amend or revoke a declaration of an infected area by public notice.

24. Restrictions and prohibitions relating to infected area

In the declaration of an infected area under section 23 , the Secretary may –

- (a) specify any restrictions and prohibitions relating to the movement into and out of that area of any person or prescribed matter; and
- (b) authorise the inspection of any thing in that area for the presence of any prescribed matter; and
- (c) specify any restrictions and prohibitions relating to any specified activity in that area.

25. Movement and possession of prescribed matter in infected area

A person who is not an inspector must not –

- (a) move or cause or allow any prescribed matter to be moved into or out of an infected area; or

- (b) be in possession of any prescribed matter that has been moved into or out of an infected area – except –
- (c) in accordance with any restriction or prohibition specified under section 24 ; or
- (d) as authorised under a permit in force under section 26 .

Penalty: Fine not exceeding 100 penalty units or a term of imprisonment not exceeding 6 months, or both.

26. Application for permit relating to infected area

- (1) A person may apply to the Secretary for a permit authorising –
 - (a) the movement into and out of an infected area of any prescribed matter; or
 - (b) the possession of any prescribed matter within that area.
- (2) An application is to be –
 - (a) in an approved form; and
 - (b) accompanied by the prescribed fee.
- (3) The Secretary may –
 - (a) grant the application subject to any conditions the Secretary determines; or
 - (b) refuse to grant it.
- (4) The Secretary may amend or revoke a permit by written notice to the holder of the permit.

27. Restricted or prohibited activity

A person who is not an inspector must not carry out any activity in an infected area that is specified under section 24(c) except in accordance with any restriction or prohibition specified under that section.

Penalty: Fine not exceeding 100 penalty units.

28. Directions relating to infected area

- (1) The Secretary may give a person in charge of an infected area directions in relation to –
 - (a) the management, maintenance, operation and security of the infected area; and
 - (b) the handling, keeping and examination of any thing detained in the infected area.
- (2) A person must comply with a direction under subsection (1) .

Penalty: Fine not exceeding 100 penalty units.

Division 3 - Control areas

29. Declaration of control area

- (1) The Secretary, by public notice, may declare a place to be a control area if reasonably satisfied that –
 - (a) it is necessary to do so to control a pest or disease present within that area that is not a List A or List B pest or a List A or List B disease; or
 - (b) there is a possibility that a List A or List B pest or a List A or List B disease may be introduced into the area.
- (2) A declaration of a control area –
 - (a) takes effect on the day on which it is made public; and
 - (b) continues in force until whichever of the following occurs first:
 - (i) the day specified in the notice;

(ii) the day on which a notice revoking the declaration is made public.

(3) The Secretary may amend or revoke a declaration of a control area by public notice.

30. Restrictions and prohibitions relating to control areas

In the declaration of a control area under section 29 , the Secretary may –

- (a) specify any restrictions and prohibitions relating to the movement into and out of that area of any person or prescribed matter; and
- (b) authorise the inspection of any vehicle in that area for the presence of any prescribed matter; and
- (c) specify any restrictions and prohibitions relating to any specified activity in that area.

31. Movement and possession of prescribed matter in control area

A person who is not an inspector must not, except in accordance with any restriction or prohibition specified in section 30 –

- (a) move or cause or allow any prescribed matter to be moved into or out of a control area; or
- (b) be in possession of any prescribed matter that has been moved into or out of a control area.

Penalty: Fine not exceeding 100 penalty units.

32. Restricted or prohibited activity

A person who is not an inspector must not carry out any activity in a control area that is specified under section 30(c) except in accordance with any restriction or prohibition specified in that section.

Penalty: Fine not exceeding 100 penalty units.

33. Restrictions, regulations and prohibitions relating to prescribed matter

(1) The Secretary, by public notice, may restrict, regulate or prohibit any one or more of the following matters within the whole or any specified part of a control area:

- (a) the holding of markets, fairs, sales, shows or any other gathering or competition involving any prescribed matter;
- (b) the presence or exposure of any specified prescribed matter at any place where any prescribed matter is exposed for sale, exhibition, parade or any form of recreation or competition;
- (c) the purpose for which any specified prescribed matter may be used;
- (d) the treatment of any specified prescribed matter or any other action of a specified kind in respect of any prescribed matter;
- (e) the keeping, transport or management of any specified prescribed matter.

(2) A notice –

- (a) takes effect on the day on which it is made public; and
- (b) continues in force until whichever of the following occurs first:
 - (i) the day specified in the notice;
 - (ii) the day on which a notice revoking the notice is made public;
 - (iii) the day on which a declaration of the control area to which it relates ceases to be in force.

(3) The Secretary may amend or revoke a notice by public notice.

(4) A person must not fail to comply with a notice.

Penalty: Fine not exceeding 100 penalty units.

34. Requirements relating to control area

(1) The Secretary, by written notice, may require the owner or occupier of land within a control area to take any specified action in relation to any one or more of the following:

- (a) any pest or disease;
- (b) any place;
- (c) any plant or plant product;
- (d) any prescribed matter;
- (e) any soil;
- (f) any package or used package.

(2) A person must comply with a requirement made under subsection (1) .

Penalty: Fine not exceeding 50 penalty units.

Division 4 - Protected areas

35. Declaration of protected area

(1) The Secretary, by public notice, may declare a place to be a protected area if reasonably satisfied that it is necessary to do so to prevent the introduction into that area of any pest or disease.

(2) A declaration of a protected area –

- (a) takes effect on the day on which it is made public; and
- (b) continues in force until whichever of the following occurs first:
 - (i) the day specified in the notice;
 - (ii) the day on which a notice revoking the declaration is made public.

(3) The Secretary may amend or revoke a declaration of a protected area by public notice.

36. Restrictions and prohibitions relating to protected areas

In the declaration of a protected area under section 35 , the Secretary may –

- (a) specify any restrictions and prohibitions relating to the movement into that area of any person or prescribed matter; and
- (b) authorise the inspection of any thing in that area for the presence of any prescribed matter; and
- (c) specify any restrictions and prohibitions relating to any specified activity in that area.

37. Movement and possession of prescribed matter in protected area

A person who is not an inspector must not –

- (a) move or cause or allow any person to move, or allow any prescribed matter to be moved, into a protected area; or
- (b) be in possession of any prescribed matter that has been moved into or out of a protected area – except –
- (c) in accordance with any restriction or prohibition specified under section 36 ; or
- (d) as authorised under a permit in force under section 38 .

Penalty: Fine not exceeding 100 penalty units.

38. Permit relating to protected area

- (1) The Secretary, by written notice to the owner or occupier of land within a protected area, may issue a permit authorising the movement into that area of any person or prescribed matter.
- (2) A permit –
 - (a) is subject to any conditions the Secretary determines; and
 - (b) may specify entry and exit points for the protected area.
- (3) The Secretary may amend or revoke a permit by written notice to the holder of the permit.

39. Restricted or prohibited activity

A person who is not an inspector must not carry out any activity in a protected area that is specified under section 36(c) except in accordance with any restriction or prohibition specified in that section.

Penalty: Fine not exceeding 100 penalty units.

Division 5 - Control programs

40. Industry control program

- (1) An organisation or a body representing the interests of any industry may prepare a draft program relating to the control of any pest or disease.
- (2) An industry control program is to specify the following:
 - (a) the name of the organisation or body that prepared the program;
 - (b) the pest or disease to which the program relates;
 - (c) the class of plant or plant product that the program affects;
 - (d) the composition of the management committee;
 - (e) the objectives of the program;
 - (f) the strategies and methods to be applied under the program to control the pest or disease to which the program relates;
 - (g) the manner in which the cost of implementing the program is to be met;
 - (h) the likely duration of the program;
 - (i) the manner in which the effectiveness of the program is to be monitored;
 - (j) the persons or classes of persons able to exercise powers in relation to the control of the pest or disease to which the program relates;
 - (k) the powers of those persons;
 - (l) whether compensation is payable for any loss incurred as a direct result of the program otherwise than specified in section 81;
 - (m) if compensation is payable –
 - (i) the manner in which compensation is to be determined; and
 - (ii) who is to pay the compensation;
 - (n) the manner in which any proceeds obtained from the implementation of the program is to be disposed of;
 - (o) the extent to which the owner of any plant or plant product affected by the implementation of the program is required to take action under the program.
- (3) An industry control program may also provide for any one or more of the following matters:
 - (a) the identification and examination of any prescribed matter, vehicle and place;

- (b) the treatment of any prescribed matter, vehicle and place;
- (c) the destruction or other disposal of any prescribed matter and place if necessary to control the pest or disease;
- (d) measures to –
 - (i) reduce the number of plants or plant products in an area or eradicate a class of plant in an area; or
 - (ii) restrict a class of plant or plant product to a particular area.

41. Approval of program

- (1) An organisation or a body that has prepared a draft industry control program may apply to the Minister for approval of the program.
- (2) An application is to be –
 - (a) in writing; and
 - (b) accompanied by a copy of the program.
- (3) On receipt of an application and after consulting with any organisation or body representing persons who are likely to be affected by the implementation of the program, the Minister may –
 - (a) approve the program; or
 - (b) if the organisation or body that prepared the draft program agrees, amend the program and approve the program as amended; or
 - (c) refuse to approve the program.
- (4) The Minister must not approve a draft industry control program if it –
 - (a) does not provide that the Secretary or the Secretary's nominee is a member of the management committee; or
 - (b) provides for the destruction or other disposal of any prescribed matter or place without the written approval of the Secretary or the owner.

42. Amendment of program

The Minister may amend an industry control program on the application of the organisation or body that prepared the draft industry control program.

43. Termination of program

The Minister may terminate an industry control program –

- (a) at his or her discretion; or
- (b) on the application of the organisation or body that prepared the draft industry control program.

44. Use of inspectors

The management committee may arrange for the services of an inspector to be made available to the management committee.

45. Cost of program

- (1) The Minister, by written notice, may agree that the Crown is to reimburse the management committee for any specified costs incurred by it in implementing an industry control program.
- (2) The notice is to –
 - (a) specify the costs or portion of the costs the Crown agrees to reimburse; and
 - (b) be provided to the management committee.

(3) Except as agreed under subsection (1) –

- (a) any other costs incurred by a management committee in implementing an industry control program are to be met as provided for in the program; and
- (b) the Crown is not liable in respect of those costs.

46. Government control program

(1) The Minister, by written notice, may direct the Secretary to implement a program to control any pest or disease if the Minister –

- (a) has consulted with any organisation or body representing any persons who are likely to be affected by the implementation of the program; and
- (b) is satisfied that it is in the interests of the State to implement the program.

(2) The Minister may give a direction without any consultation if satisfied that the interests of the State require the immediate implementation of a government control program.

(3) A direction to implement a government control program is to specify –

- (a) the pest or disease to which the program relates; and
- (b) whether compensation for any loss incurred as a direct result of the program is payable; and
- (c) if compensation is payable, the manner in which compensation is to be determined.

(4) A government control program may also provide for any one or more of the following matters:

- (a) the identification and examination of any prescribed matter and place;
- (b) the treatment of any prescribed matter and place;
- (c) the destruction or other disposal of any prescribed matter and place if necessary to control any pest or disease;
- (d) measures to –
 - (i) reduce the number of plants and plant products in an area or eradicate a class of plant or plant product; or
 - (ii) restrict a class of plant or plant product to a particular area;
- (e) any other measures the Minister considers appropriate to control any pest or disease.

Division 6 - Control agreements

47. Control agreement

(1) The Secretary may make an agreement with the owner or occupier of any place to carry out any procedure or treatment –

- (a) to control and monitor pests and diseases in the place; or
- (b) to prevent or minimise the dissemination of any pest or disease in the place; or
- (c) to reduce the risk of any pest or disease being disseminated into the place.

(2) A control agreement –

- (a) is subject to any condition the Secretary considers appropriate; and
- (b) is to provide for the recovery by the Secretary of any costs incurred in carrying out the agreement.

(3) A person must not fail to comply with a condition of a control agreement.

Penalty: Fine not exceeding 100 penalty units.

48. Suspension or revocation of agreement

The Secretary may suspend or revoke a control agreement if he or she reasonably believes that any condition of the agreement has not been complied with.

PART 4 - Inspectors

Division 1 - Appointment

49. Appointment of inspectors

- (1) The Secretary may appoint as an inspector –
 - (a) a person employed in the Department; and
 - (b) with the approval of the Head of another Agency, a suitably qualified person employed in that Agency; and
 - (c) any other person.
- (2) A person appointed as an inspector may hold that office in conjunction with any other State Service employment.
- (3) An inspector is to exercise any powers subject to any conditions specified by the Secretary.

50. General functions of inspector

An inspector has the following functions:

- (a) to detect and investigate pests and diseases;
- (b) to prevent the introduction into Tasmania of pests and diseases;
- (c) to control the spread of pests and diseases;
- (d) to carry out surveillance for the presence of pests and diseases;
- (e) to eradicate pests and diseases;
- (f) to ensure that persons comply with this Act;
- (g) to determine whether any person may have contravened this Act.

Division 2 - Powers of inspectors

51. Search and entry

- (1) For the purposes of this Act, an inspector may at all reasonable times –
 - (a) enter and remain in any place where there is, or is suspected to be, any pest or disease; and
 - (b) search any place lawfully entered for the presence of any pest or disease; and
 - (c) stop and search any vehicle for the presence of any pest or disease; and
 - (d) open or break open and search any package in any vehicle or place lawfully entered; and
 - (e) search any person in or on any vehicle or place lawfully entered if the inspector reasonably believes any plant or plant product –
 - (i) has been imported in contravention of this Act; and
 - (ii) is on the person.
- (2) An inspector may only enter premises used for residential purposes –
 - (a) with the consent of the owner or occupier; or
 - (b) under the authority of a warrant issued under section 57 .
- (3) An inspector may at all reasonable times enter and remain on private land to check any traps or equipment placed –

- (a) for the purpose of an industry control program or a government control program; or
- (b) to survey for the presence of any pest or disease.

52. Samples

- (1) For the purpose of this Act, an inspector may take samples from, or specimens of, any prescribed matter or other thing the inspector reasonably believes is affected or contaminated by a pest or disease.
- (2) An inspector may submit a sample or specimen for examination at a laboratory approved by the Secretary.

53. Seizure

- (1) For the purposes of this Act, an inspector may –
 - (a) seize and retain any prescribed matter, package or vehicle if the inspector reasonably believes –
 - (i) a pest or disease is present; or
 - (ii) a direction of the inspector is not being complied with; and
 - (b) seize and retain any other thing that appears to indicate that an offence under this Act has been, or is being, committed.
- (2) An inspector must provide the owner of anything seized with a written notice of that seizure as soon as practicable.
- (3) The Secretary may retain anything seized by an inspector –
 - (a) for a period not exceeding 6 months commencing on the day it is seized; or
 - (b) if proceedings for an offence in relation to it are instituted within that period, until the proceedings are terminated.
- (4) The Secretary may release anything that has been seized to the owner unconditionally or on any conditions the Secretary considers appropriate.
- (5) Without the written permission of the Secretary, a person must not interfere with or remove anything that has been seized.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 6 months, or both.

54. Destruction and treatment

- (1) An inspector may determine that any prescribed matter, package or vehicle infected or likely to be infected with any pest or disease is to be –
 - (a) treated; or
 - (b) destroyed if effective treatment is not available; or
 - (c) otherwise disposed of.
- (2) An inspector may destroy or cause to be destroyed any prescribed matter, package or vehicle that is imported in contravention of this Act.
- (3) An inspector may only destroy or cause to be destroyed anything that, in the inspector's opinion, has a current value greater than \$500 with the written authority of the Secretary.

55. Treatment of prescribed matter and vehicles

For the purpose of this Act, an inspector may at all reasonable times –

- (a) dismantle any prescribed matter, vehicle or premises if the inspector considers it necessary to do so for the purpose of –
 - (i) determining if it is infected; or
 - (ii) diagnosing a pest or disease; or

- (iii) determining the cause of a pest or disease; or
- (iv) determining the extent of any infection; or
- (v) treating it; and
- (b) repair any prescribed matter, vehicle or premises; and
- (c) repair or erect premises; and
- (d) examine or treat any prescribed matter, vehicle or premises; and
- (e) isolate any prescribed matter, vehicle or premises; and
- (f) remove any prescribed matter or vehicle; and
- (g) tag or mark any prescribed matter, vehicle or premises in any manner appropriate for the purpose of identification; and
- (h) return, or cause to be returned, to the place from where it came any prescribed matter, vehicle moved into, within or out of any place in contravention of this Act.

56. Directions of inspectors

- (1) For the purposes of this Act, an inspector, by written notice, may give directions –
 - (a) to the owner or occupier of a place to take any specified action in respect of any prescribed matter, vehicle or other thing; and
 - (b) to any person or class of person relating to the movement into and out of any specified place of anything or person; and
 - (c) to any person or class of person relating to any other matter the inspector considers necessary.

- (2) A person must comply with any direction of an inspector.

Penalty: Fine not exceeding 50 penalty units.

- (3) If a person fails to comply with any direction of an inspector –
 - (a) the inspector may do anything required by that direction; and
 - (b) any costs so incurred are payable by that person.

57. Warrants

- (1) On the application of an inspector, a magistrate may issue a warrant if satisfied that there are reasonable grounds for believing that it is necessary for the inspector to enter a residence for the purpose of performing any function or exercising any power under this Act.
- (2) A warrant is to specify the residence in respect of which it is made.
- (3) A warrant has effect for a period of 30 days after the day on which it is granted.
- (4) An inspector named in the warrant and any person assisting that inspector may –
 - (a) enter and remain in the residence, using force if necessary; and
 - (b) perform any function and exercise any power under this Act in or in relation to the residence.

58. Examining baggage and goods on entry into State

- (1) An inspector may examine any baggage and other goods entering the State if the inspector –
 - (a) reasonably believes that a List A or List B pest or List A or List B disease exists in any place outside the State; or
 - (b) considers it necessary to prevent the importation of anything in contravention of this Act.
- (2) An inspector may –

(a) require a person entering the State to have his or her baggage examined for the presence of any prescribed matter or other thing –

(i) that may have been exposed to a List A or List B pest or List A or List B disease; or

(ii) that may have been imported in contravention of this Act; and

(b) treat or require to be treated any prescribed matter or thing present in the baggage; and

(c) return or require to be returned to the place it came from any prescribed matter or thing present in the baggage; and

(d) destroy any prescribed matter or thing present in the baggage or require it to be destroyed; and

(e) seize and retain any prescribed matter or thing present in the baggage for the purpose of treatment or destruction.

(3) An inspector may only destroy or require the destruction of anything that, in the inspector's opinion, has a current value greater than \$500 with the written authority of the Secretary.

59. Documents

(1) For the purpose of this Act, an inspector may –

(a) examine, make or print copies of or take extracts from any document or record; and

(b) seize any document or record that appears to indicate that an offence under this Act has been or is being committed; and

(c) take any photographs, film or video recording; and

(d) make any sketches or drawing; and

(e) make any recording by any means.

(2) The Secretary may retain any document or record seized by an inspector under subsection (1) for as long as is necessary for the purposes of this Act.

(3) An inspector must provide the owner of any document or record seized with a written notice of that seizure as soon as practicable.

(4) At the request of a person who would be entitled to possession of the document or record if it were not in the possession of the Secretary, the Secretary must provide that person with a certified copy of the document or record as soon as practicable.

60. Using reasonable force

In performing any functions and exercising any powers an inspector may use any reasonable force necessary in the circumstances.

61. Using assistants

In performing any functions or exercising any powers an inspector may be accompanied and assisted by any persons, including police officers, the inspector considers appropriate.

62. Obtaining assistance and facilities

(1) An inspector may direct any person to give the inspector any assistance the inspector considers reasonable.

(2) An inspector may direct any person to provide any facilities that –

(a) the inspector requires for the purposes of safely, effectively and efficiently performing any function or exercising any power under this Act; and

(b) the inspector considers reasonable to be provided; and

(c) are in the possession or control of the person.

(3) A person must not fail to comply with any direction under this section.

Penalty: Fine not exceeding 50 penalty units.

63. Giving name and address

- (1) An inspector may require a person to give his or her name and address.
- (2) A person must not –
 - (a) refuse to give his or her name when required to do so; or
 - (b) give a false name or false address.

Penalty: Fine not exceeding 50 penalty units.

64. Identification of inspectors

- (1) An owner of a place or vehicle where an inspector is taking or about to take any action under this Act may require the inspector to produce identification as an inspector.
- (2) If a requirement is made under subsection (1) , the inspector may not take any action or further action until he or she has –
 - (a) produced the required identification; or
 - (b) obtained permission to do so from the owner.

65. Obstruction of inspector

- (1) A person, without reasonable excuse, must not –
 - (a) obstruct, resist, impede or assault –
 - (i) an inspector who is performing or exercising a function or power under this Act; or
 - (ii) a person who is assisting that inspector; or
 - (b) threaten, abuse or insult an inspector; or
 - (c) fail to answer a question if required to do so by an inspector; or
 - (d) fail to provide a document, record or information if required to do so by an inspector; or
 - (e) prevent or attempt to prevent a person from giving information to, or being questioned by, an inspector; or
 - (f) impersonate an inspector.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 6 months, or both.

- (2) On convicting a person of an offence under subsection (1)(c) or (d) , in addition to imposing a penalty a court may order that person to –

- (a) answer the question; or
 - (b) provide the document, record or information.

- (3) Any answer, document, record or information provided by a person under subsection (2) is not admissible against that person in any other proceedings.

PART 5 - Importation and quarantine

Division 1 - Importation

66. Prohibited plants and plant products

- (1) The Secretary, by public notice, may declare –
 - (a) a plant or species or kind of plant to be a prohibited plant; and
 - (b) a plant product to be a prohibited plant product.
- (2) A person must not –
 - (a) import or allow to be imported into the State any prohibited plant or prohibited plant product; or
 - (b) be in possession of any prohibited plant or prohibited plant product.

Penalty: Fine not exceeding 200 penalty units or a term of imprisonment not exceeding 6 months, or both.

- (3) The Secretary may revoke a declaration of a prohibited plant or prohibited plant product by public notice.

67. Restricted plants and plant products

- (1) The Secretary, by public notice, may declare –
 - (a) a plant or species or kind of plant to be a restricted plant; and
 - (b) a plant product to be a restricted plant product.
- (2) A person must not import or allow to be imported into the State any restricted plant or restricted plant product –
 - (a) without the written approval of the Secretary; and
 - (b) otherwise than in accordance with any conditions and restrictions imposed under subsection (3) .

Penalty: Fine not exceeding 100 penalty units or a term of imprisonment not exceeding 6 months, or both.

- (3) The Secretary may give approval under subsection (2) subject to any conditions and restrictions the Secretary considers necessary.
- (4) The Secretary may amend or revoke a declaration of a restricted plant or restricted plant product by public notice.

68. Conditions and restrictions relating to importation

- (1) The Secretary, by public notice, may impose any conditions or restrictions in relation to the importation of any prescribed matter.
- (2) A person must comply with any condition or restriction imposed under subsection (1) .

Penalty: Fine not exceeding 200 penalty units.

69. Importation of pests and diseases

A person must not import or allow to be imported into the State any List A pest, List B pest, List A disease or List B disease.

Penalty: Fine not exceeding 100 penalty units.

Division 2 - Quarantine

70. Approved quarantine place

(1) The Secretary, by public notice, may declare a place to be an approved quarantine place for the purpose of examining any prescribed matter imported into or to be exported out of the State if satisfied that the place is suitable for that purpose.

(2) A declaration is to –

- (a) identify the place to which it applies; and
- (b) specify the period during which the declaration is in force; and
- (c) specify the purpose for which the place has been approved.

(3) A person, without the authority of an inspector, must not –

- (a) enter or leave the approved quarantine place; or
- (b) take anything into or out of the approved quarantine place.

Penalty: Fine not exceeding 100 penalty units.

(4) The Secretary may amend or revoke a declaration of an approved quarantine place.

71. Application for declaration of approved quarantine place

(1) A person may apply to the Secretary for a place to be declared an approved quarantine place under section 70 .

(2) An application is to –

- (a) be in an approved form; and
- (b) specify the place to which the application relates; and
- (c) specify the purpose for which the application is sought; and
- (d) be accompanied by the prescribed fees and charges.

(3) The Secretary may –

- (a) grant the application and make a declaration under section 70 ; or
- (b) refuse to grant the application.

72. Quarantine of prescribed matter

(1) An inspector is to ensure that –

- (a) any prescribed matter imported into the State is removed from its place of entry in the State and placed in an approved quarantine place; and
- (b) any prescribed matter to be exported out of the State is placed in an approved quarantine place before it is exported.

(2) A person must not remove, or allow to be removed, any prescribed matter from an approved quarantine place except under the authority of a certificate issued under section 74 .

Penalty: Fine not exceeding 100 penalty units.

73. Examination and treatment of prescribed matter

(1) An inspector in charge of an approved quarantine place is to examine any prescribed matter placed in that place to determine whether or not it is free from any pest or disease.

(2) Subsection (1) does not apply if the inspector is satisfied from documents or records that the prescribed matter is free from any pest or disease.

(3) If the inspector reasonably believes any prescribed matter is not free from any pest or disease, the inspector is to arrange for it to be treated or dealt with in a manner the inspector considers necessary.

74. Certificate of release

(1) An inspector in charge of an approved quarantine place may issue a certificate authorising the release of prescribed matter from that place if satisfied that –

(a) the prescribed matter –

(i) is free from any pest or disease; or

(ii) has been successfully treated or dealt with under section 73(3) ; and

(b) all the applicable fees and charges in relation to the examination and treatment of the prescribed matter have been paid.

(2) A certificate may specify –

(a) a class of prescribed matter; and

(b) a particular prescribed matter; and

(c) the period during which it remains in force.

75. Assistance by importer

(1) An inspector may require the importer or exporter of any prescribed matter being treated or dealt with in an approved quarantine place to provide any assistance the inspector requires in relation to –

(a) the removal to, or placement in, that place of any prescribed matter; and

(b) the examination, treatment or any other process relating to any prescribed matter.

(2) A person must comply with a requirement of an inspector under this section.

Penalty: Fine not exceeding 100 penalty units.

PART 6 - Miscellaneous

Division 1 - Protection of certain plants

76. Threatened plants

Before any power is exercised or function is performed under this Act that may affect any plant that is protected under the Threatened Species Protection Act 1995 , the Secretary is to –

- (a) consult with the Minister responsible for that Act; and
- (b) approve the exercise of that power or performance of that function.

77. Protected plants

Before any power is exercised under this Act in respect of any plant that is protected under the Nature Conservation Act 2002 , the Secretary is to consult with the Secretary of the department responsible for administering that Act.

Division 2 - Fees, costs and compensation

78. Recovery of costs

- (1) The owner or occupier of any place or the owner of any thing is liable for the costs and expenses reasonably incurred in the performance of any function or exercise of any power under this Act in relation to the place or thing.
- (2) The Secretary may recover the costs and expenses in a court of competent jurisdiction as a debt due to the Crown.
- (3) If the Secretary receives any proceeds as a consequence of disposing of any thing under this Act, those proceeds less any reasonable costs and expenses are to be paid to the owner of the thing.

79. Sale or destruction of prescribed matter

If any fees or costs are not paid in respect of any prescribed matter, the Secretary may –

- (a) sell it to recoup the unpaid fees or costs; or
- (b) destroy or otherwise dispose of it as the Secretary determines appropriate.

80. Liability of Crown for costs

The Crown is not liable in respect of any costs and expenses incurred by a person in complying with a direction or a requirement made under this Act.

81. Compensation for damage during treatment

Compensation is not payable in respect of any damage that occurs to any prescribed matter or place being treated under this Act if the treatment is carried out by an inspector in accordance with reasonable standards relating to that treatment.

82. Compensation

Compensation is not payable in respect of any loss incurred in respect of any prescribed matter because it is –

- (a) delayed; or
- (b) transferred; or
- (c) diverted; or
- (d) repackaged; or
- (e) dealt with in another manner.

82A. Payments under certain agreements

- (1) Nothing in section 78(1) is to be taken as preventing the Crown from making, pursuant to a biosecurity (response and cost-sharing) agreement, payments that have the effect of relieving a person from all or part of a liability that the person has incurred, or is likely to incur, under that section.
- (2) Nothing in section 80 , 81 or 82 is to be taken as preventing the Crown from making payments to a person pursuant to a biosecurity (response and cost-sharing) agreement.
- (3) In this section –

biosecurity (response and cost-sharing) agreement means an agreement that –

- (a) the State is a party to; and
- (b) furthers the objects of this Act; and
- (c) has been certified by the Minister to be a biosecurity (response and cost-sharing) agreement for the purposes of this section.

Division 3 - Liability

83. Immunity

- (1) A person does not incur any personal liability in respect of any act done or not done in good faith –
 - (a) in the performance or exercise, or the purported performance or exercise, of any function or power under this Act; or
 - (b) in the administration or execution, or the purported administration or execution, of this Act.
- (2) A civil liability that would, but for subsection (1) , lie against a person lies against the Crown.

84. Liability of director

If a body corporate has committed an offence against this Act, each director or other person concerned in the management of the body corporate is guilty of the offence and liable to a penalty not exceeding that prescribed for the offence unless it is proved that the director or other person could not have prevented the commission of the offence by the exercise of reasonable diligence.

Division 4 - Offences

85. Continuing offence

- (1) A person who commits an offence under this Act that is a continuing offence is liable, in addition to any other penalty, to a further penalty not exceeding one-fifth of the maximum penalty prescribed for that offence for each day during which the offence continues.
- (2) An obligation to do anything continues until it is done, notwithstanding that any period within which, or time before which, the thing is required to be done has ended or passed.

86. Defence

It is a defence to a charge of an offence under this Act if the defendant proves that the offence did not result from any failure on his or her part to take all reasonable actions and care to avoid the commission of the offence.

87. Penalty for body corporate

If a body corporate is convicted of an offence against this Act, the penalty that the court may impose on the body corporate is a fine not exceeding 5 times the maximum fine that the court may impose as a penalty for that offence.

88. Protection of disease control measures

A court may not prevent or restrain the Secretary or an inspector from taking any action under this Act in relation to, or in consequence of, an occurrence or suspected occurrence of a List A pest or List A disease.

Division 5 - Infringement notices

89. Infringement notices

- (1) An inspector or a person authorised by the Secretary may serve an infringement notice on a person, other than a person under the age of 16 years, if of the opinion that the person has committed a prescribed offence.
- (2) An infringement notice is not to relate to 4 or more offences.
- (3) An infringement notice is to be in accordance with section 14 of the Monetary Penalties Enforcement Act 2005 .

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93. Payment

- (1)
- (2)
- (3)
- (4)
- (5) Any payments made in respect of an infringement notice are payable into the Consolidated Fund.

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Division 6 - General matters

97. Pests or diseases having environmental impact

- (1) The Secretary, if of the opinion that any pest or disease may have a significant environmental impact, is to consult with the Secretary of the responsible Department in relation to the Nature Conservation Act 2002 before performing any function or exercising any power under this Act in relation to that pest or disease.
- (2) In respect of a function or power referred to in subsection (1) , the Secretary may –
 - (a) require the assistance of a person appointed or employed for the purposes of the Nature Conservation Act 2002 or the National Parks and Reserves Management Act 2002 to assist in the exercise or performance of that function or power; or
 - (b) delegate to that person the exercise or performance of that function.

98. Directions generally

- (1) A direction under this Act –
 - (a) may be given verbally or in writing; and
 - (b) may be of general or limited application; and
 - (c) if of a continuing nature, has effect for the period specified in the direction; and
 - (d) may incorporate or operate by reference to any code, standard or other document if a copy of the relevant part of that code, standard or other document is attached to the direction.
- (2) An inspector may vary or revoke a direction by notice in writing given to the person to whom the direction was given.
- (3) An inspector who verbally gives a direction to a person must provide the person with a written copy of the direction if the person requests it.

99. Exemptions

- (1) The Secretary, by public notice, may exempt any prescribed matter, place, person or class of person from complying with this Act.
- (2) An exemption –
 - (a) may be of general or specific application; and
 - (b) may be limited in its application as specified; and
 - (c) is subject to any specified conditions.
- (3) An exemption –
 - (a) takes effect on the day on which it is made public; and
 - (b) continues in force until the day on which a notice under subsection (4) is made public.
- (4) The Secretary may amend or revoke an exemption by public notice.

100. Posting signs

- (1) An inspector may place a sign, in a form approved by the Secretary –
 - (a) at any place at or near the boundary of any infected area, control area or protected area to indicate the boundaries of the place or area or any restriction or prohibition relating to the place or area; and
 - (b) at any place the inspector considers appropriate to indicate the effect of any declaration or notice made under this Act; and
 - (c) along roadways to indicate that traffic should stop.
- (2) The driver of a vehicle approaching a sign referred to in subsection (1)(c) must –
 - (a) stop the vehicle; and
 - (b) keep it stationary for the purpose of enabling an inspector to exercise any of the powers conferred under this Act.

Penalty: Fine not exceeding 50 penalty units.

- (3) A person must not damage, deface, remove or interfere with any sign.

Penalty: Fine not exceeding 50 penalty units.

101. Survey traps and equipment

A person must not move, destroy or otherwise interfere with any trap or equipment placed under the authority of the Secretary or an inspector for the purpose of monitoring for the presence of any pest or disease.

Penalty: Fine not exceeding 50 penalty units.

101A. False or misleading statements

- (1) A person must not, in making any application or giving any information under this Act –
 - (a) make a statement knowing it to be false or misleading; or
 - (b) omit any matter from a statement knowing that without that matter the statement is misleading.

Penalty: Fine not exceeding 50 penalty units.

- (2) A person must not make any statement about a plant, plant product, agricultural or other equipment, premises, organism, pest or disease or the production, importation into the State or movement of a plant, plant product, agricultural or other equipment, organism, pest or disease that is false, or misleading, and likely to cause a person who relies on the statement to commit an offence under this Act.

Penalty: Fine not exceeding 50 penalty units.

- (3) A person must not make a statement that is false or misleading in answer to a question or inquiry by an inspector or the Secretary.

Penalty: Fine not exceeding 50 penalty units.

102. Evidence

- (1) In any proceedings, a document purporting to be a certificate signed by the Secretary and relating to any one or more of the following matters is evidence of the facts stated in the document:

- (a) the appointment of an inspector under this Act;
- (b) any approval under this Act;
- (c) a delegation under this Act;
- (d) the amount of costs and expenses incurred in the taking of any action under this Act by an inspector or the Secretary;
- (e) a declaration of any infected area, control area or protected area.

- (2) An allegation in a complaint of any of the following is evidence of the matter alleged:

- (a) that a specified person is or was the owner or occupier of any place;
- (b) that a specified person is or was the owner of any prescribed matter;
- (c) that a specified prescribed matter was in a specified area or was moved into or out of a specified area;
- (d) that a specified prescribed matter was infected.

- (3) In any proceedings, a person is taken to have been notified by an inspector of the making of a declaration if a sign indicating the making of the declaration has been placed where the person would, in the normal course of events, have passed or seen the sign.

- (4) In any proceedings, any printed or mechanically or electronically copied book, booklet, pamphlet, sheet or card purporting to contain any document, code, standard, rule, specification or method referred to in section 105 is taken to be issued by the specified body or association.

103. Records

- (1) The Secretary may require any person or class of person to –
 - (a) keep specified records relating to any specified matter or activity; and
 - (b) provide copies of those records to the Secretary.
- (2) A requirement may be made by –

- (a) a notice published in the *Gazette*; or
 - (b) a written notice given to the person.
- (3) A person must comply with a requirement.

Penalty: Fine not exceeding 50 penalty units.

104. Regulations

- (1) The Governor may make regulations for the purpose of this Act.
- (2) Regulations under this Act may –
 - (a) prohibit or regulate the use, disposal, destruction or treatment of any prescribed matter or place; or
 - (b) prescribe fees for the examination, treatment or dealing with any prescribed matter; or
 - (c) prescribe fees and charges payable in respect of any other matter under this Act.
- (3) Regulations may prescribe fees and charges by reference to number, weight, unit or package.
- (4) Regulations may be made so as to apply differently according to any matter, limitation or restriction specified in the regulations.
- (5) The regulations may authorise any matter to be determined, applied or regulated by the Secretary.
- (6) Regulations under this section may –
 - (a) provide that a contravention of, or a failure to comply with, any of the regulations is an offence; and
 - (b) in respect of such an offence, provide for the imposition of a fine not exceeding 10 penalty units and, in the case of a continuing offence, a further fine not exceeding 5 penalty units for each day during which the offence continues.
- (7) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.
- (8) A provision referred to in subsection (7) may take effect on and from the day on which this Act commences or a later day.

105. Incorporation by reference

- (1) A regulation may apply, adopt or incorporate any matter contained in any document, code, standard, rule, specification or method formulated, issued, prescribed or published by any authority or body –
 - (a) either wholly or partially; or
 - (b) with or without modifications; or
 - (c) either specifically or by reference.
- (2) If, after the application, adoption or incorporation, the document, code, standard, rule, specification or method is amended or rescinded or replaced, the regulation remains unaltered and its reference is not updated except by an amending regulation.

106. Repeal

The Acts specified in Schedule 1 are repealed and any Statutory Rules made under those Acts are rescinded or revoked.

107. Transitional and savings provisions

Schedule 2 has effect in respect of transitional and savings provisions.

108. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the Administrative Arrangements Act 1990 –

- (a) the administration of this Act is assigned to the Minister for Primary Industry and Fisheries; and
- (b) the Department responsible to the Minister for Primary Industry and Fisheries in relation to the administration of this Act is the Department of Primary Industry and Fisheries.

SCHEDULE 1 - Acts repealed

Section 106

1. Noxious Insects and Molluscs Act 1951
2. Plant Diseases Act 1930
3. Plant Protection Act 1994

SCHEDULE 2 - Transitional and savings

Section 107

1. Interpretation

In this Schedule –

commencement day means the day on which this Act commences;

repealed Act means –

(a) the Noxious Insects and Molluscs Act 1951 ; and

(b) the Plant Diseases Act 1930 .

2. Inspectors

Any person who, immediately before the commencement day, was an inspector for the purposes of any repealed Act is, on that commencement day, an inspector under this Act.

3. Infected areas

(1) Any place which, immediately before the commencement day, was an infested area or an infected area under any repealed Act is, on that commencement day, an infected area under this Act.

(2) Any prohibition in force immediately before the commencement day under any repealed Act in respect of the removal of anything from an infected area continues, on that commencement day, to be in force until a declaration under section 23 is made in relation to that area.

4. Recovery of expenses

Any expenses or costs incurred by any person immediately before the commencement day in respect of anything done or work carried out under any repealed Act and not recovered before the commencement day are, on and after that commencement day, recoverable in a court of competent jurisdiction under that Act.

5. Actions, proceedings and appeals

Any action, proceeding or appeal instituted or commenced under any repealed Act but not determined before the commencement day may, on that commencement, be continued under that Act until determined.

6. Agreements

Any agreement in force immediately before the commencement day under any repealed Act for carrying out work in respect of eradicating, minimising or preventing the dissemination of a pest or disease is, on that commencement day, a control agreement under this Act.

7. Exemptions

Any exemption in force under any repealed Act immediately before the commencement day is, on that commencement day, an exemption under this Act.

8. Funds

Any fund established and in existence immediately before the commencement day under any repealed Act in respect of the eradication or control of disease is abolished and any money standing to the credit of the fund –

(a) vests on that commencement day in the Crown; and

(b) is to be paid into the Consolidated Fund.

