



# **Quarantine Amendment (Commission of Inquiry) Act 2007**

**No. 158, 2007**

**An Act to amend the *Quarantine Act 1908*, and for other purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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# Quarantine Amendment (Commission of Inquiry) Act 2007

No. 158, 2007

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## An Act to amend the *Quarantine Act 1908*, and for other purposes

[Assented to 24 September 2007]

The Parliament of Australia enacts:

### 1 Short title

This Act may be cited as the *Quarantine Amendment (Commission of Inquiry) Act 2007*.

## **2 Commencement**

This Act commences on the day on which it receives the Royal Assent.

## **3 Schedule(s)**

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## Schedule 1—Amendment of the Quarantine Act 1908

### 1 Subsection 5(1)

Insert:

*Commissioner* means a person appointed under section 66AY.

### 2 Subsection 5(1)

Insert:

*Commission of inquiry* means the inquiry conducted, or to be conducted, by a person appointed under section 66AY.

### 3 Subsection 5(1) (at the end of the definition of *quarantine officer*)

Add “and, to the extent that the Director of Quarantine has determined under section 66AZC that a person (or a person included in a specified class of persons) has functions and/or powers of a quarantine officer under this Act, includes such a person”.

### 4 Subsection 5(1)

Insert:

*Royal Commission* has the meaning given by the *Royal Commissions Act 1902*.

### 5 After Part VIA

Insert:

## Part VIB—Commission of inquiry into equine influenza outbreak

### 66AY Appointment of Commissioner

(1) The Minister may, in writing, appoint a person to:

- (a) conduct a Commission of inquiry into matters specified in the instrument of appointment relating to all or any of the following:
    - (i) the outbreak of equine influenza in Australia in 2007;
    - (ii) quarantine requirements and practices relating to the outbreak;
    - (iii) any matters incidental to the matters referred to in subparagraphs (i) and (ii); and
  - (b) report to the Minister on the matters (including any recommendations relating to the matters) on or before a day specified in the instrument of appointment.
- (2) The appointment takes effect on the day of effect specified in the instrument of appointment. The day of effect must not be earlier than the day on which the instrument is made.
  - (3) A copy of the instrument must be published in the *Gazette*.
  - (4) The Commissioner's report is not a legislative instrument.

#### **66AZ Hearings**

- (1) The Commissioner may hold hearings for the purposes of the Commission of inquiry.
- (2) The hearings may be held at such places, whether within or outside Australia, as the Commissioner determines.
- (3) Subject to this Act, the procedure at a hearing is to be such as the Commissioner determines.

#### **66AZA Commissioner not bound by the rules of evidence**

The Commissioner is not bound by the rules of evidence and may inform himself or herself on any matter in such manner as he or she thinks fit.

#### **66AZB Quarantine officers**

- (1) The Director of Quarantine may enter into an arrangement with the Commissioner to make quarantine officers available, for a period not exceeding the duration of the Commission of inquiry, to assist with the conduct of the Commission of inquiry.



- (2) In performing functions and exercising powers to the extent reasonably necessary to assist with the conduct of the Commission of inquiry, a quarantine officer made available under such an arrangement:
- (a) is subject to the directions of the Commissioner; and
  - (b) despite subsection 8A(6) or 8B(6), is not subject to the directions of a Chief Quarantine Officer or Director of Quarantine.

### **66AZC Conferral of quarantine powers**

- (1) The Director of Quarantine may, in writing, determine that a specified person, or a person included in a specified class of persons, who is engaged by the Commonwealth to assist with the conduct of the Commission of inquiry has all the functions and powers of, or specified functions and/or powers of, a quarantine officer under this Act.
- (2) The person is taken, for the purposes of this Act, to be a quarantine officer in connection with the performance of those functions and the exercise of those powers.
- (3) In performing those functions and exercising those powers, the person:
- (a) is subject to the directions of the Commissioner; and
  - (b) is not subject to the directions of a Chief Quarantine Officer or Director of Quarantine.
- (4) A determination made under subsection (1) is not a legislative instrument.

### **66AZD Disclosure of personal information**

The disclosure of personal information (within the meaning of the *Privacy Act 1988*) by:

- (a) a quarantine officer; or
  - (b) a person engaged under the *Public Service Act 1999*;
- for the purposes of assisting with the conduct of the Commission of inquiry is taken to be authorised by law.

Note: The effect of this section includes (but is not limited to) an authorisation for the purposes of paragraph (1)(d) of Information Privacy Principle 11 in section 14 of the *Privacy Act 1988*.

**66AZE Application of the *Royal Commissions Act 1902***

- (1) Subject to this section, the *Royal Commissions Act 1902*, other than sections 4 and 5, applies in relation to the Commission of inquiry, and to the Commissioner conducting it, as if:
  - (a) the Commission of inquiry were a Royal Commission; and
  - (b) the Commissioner were a member of a Royal Commission; and
  - (c) that Act bound the Crown in each of its capacities.
- (2) This section does not make the Crown liable to be prosecuted for an offence.
- (3) The regulations may, for the purposes of the application of section 9 of the *Royal Commissions Act 1902* in accordance with subsection (1) of this section, provide for or specify matters of the kind referred to in subsection 9(2) of that Act.
- (4) Section 9 of the *Royal Commissions Act 1902*, in its application in accordance with subsection (1) of this section, has effect as if those regulations were regulations made for the purposes of subsection 9(2) of that Act.
- (5) Sections 10 and 15 of the *Royal Commissions Act 1902*, in their application in accordance with subsection (1) of this section, have effect as if references in those sections to offences against that Act included references to such offences as apply in accordance with subsection (1) of this section.

**66AZF Application of laws relating to disclosure**

A law of the Commonwealth that relates to the disclosure of information applies in relation to disclosure of information to the Commission of inquiry in the same way that it would apply to disclosure of the information to a Royal Commission.

## Schedule 2—Other amendments

### *Archives Act 1983*

#### 1 Subsection 3(1)

Insert:

*Commission of inquiry* has the same meaning as it has in the  
*Quarantine Act 1908*.

#### 2 Subsection 22(1)

Repeal the subsection, substitute:

- (1) This section applies to:
- (a) the records kept by a Royal Commission, whether the inquiry commenced or was completed before or after the commencement of this Part; and
  - (b) the records kept by the Commission of inquiry.

Note: The heading to section 22 is altered by adding at the end “etc.”.

#### 3 Subsections 22(2) and (4)

After “Royal Commission”, insert “, or by the Commission of inquiry,”.

#### 4 Subsection 22(5)

Repeal the subsection, substitute:

- (5) For the purposes of this Act:
- (a) the Minister administering the *Royal Commissions Act 1902* is taken to be the responsible Minister in relation to the records of a Royal Commission; and
  - (b) the Minister administering the *Quarantine Act 1908* is taken to be the responsible Minister in relation to the records of the Commission of inquiry.

### *Freedom of Information Act 1982*

#### 5 Subsection 4(1)

Insert:

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*Commission of inquiry* has the same meaning as it has in the  
*Quarantine Act 1908*.

**6 Subsection 4(1) (at the end of subparagraphs (a)(i) to (iv) of the definition of *prescribed authority*)**

Add “or”.

**7 Subsection 4(1) (at the end of paragraph (a) of the definition of *prescribed authority*)**

Add:

; or (vii) the Commission of inquiry;

**8 Subsection 13(3)**

Repeal the subsection, substitute:

(3) Despite subsections (1) and (2):

- (a) records of a Royal Commission that are in the custody of the Australian Archives are, for the purposes of this Act, taken to be documents of an agency and to be in the possession of the Department administered by the Minister administering the *Royal Commissions Act 1902*; and
- (b) records of the Commission of inquiry that are in the custody of the Australian Archives are, for the purposes of this Act, taken to be documents of an agency and to be in the possession of the Department administered by the Minister administering the *Quarantine Act 1908*.

***Privacy Act 1988***

**9 Subsection 6(1)**

Insert:

*Commission of inquiry* has the same meaning as it has in the  
*Quarantine Act 1908*.

**10 At the end of paragraph 7(1)(a)**

Add:

(vi) the Commission of inquiry; or

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*[Minister's second reading speech made in—  
House of Representatives on 12 September 2007  
Senate on 18 September 2007]*

(176/07)