





# **Biosecurity (Consequential Amendments and Transitional Provisions) Act 2015**

**No. 62, 2015**

**An Act to deal with consequential and transitional  
matters arising from the enactment of the  
*Biosecurity Act 2015*, and for related purposes**

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



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No. 62, 2015

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**An Act to deal with consequential and transitional matters arising from the enactment of the *Biosecurity Act 2015*, and for related purposes**

[Assented to 16 June 2015]

The Parliament of Australia enacts:

## 1 Short title

This Act may be cited as the *Biosecurity (Consequential Amendments and Transitional Provisions) Act 2015*.

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	16 June 2015
2. Schedules 1 and 2	At the same time as section 3 of the <i>Biosecurity Act 2015</i> commences.	
3. Schedule 3	The day this Act receives the Royal Assent.	16 June 2015
4. Schedule 4	At the same time as section 3 of the <i>Biosecurity Act 2015</i> commences.	

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

## 3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

### ***Quarantine Act 1908***

#### **1 The whole of the Act**

Repeal the Act.

### ***Quarantine Charges (Collection) Act 2014***

#### **2 The whole of the Act**

Repeal the Act.

## Schedule 2—Consequential amendments

### *Archives Act 1983*

#### **1 Subsection 3(1) (paragraph (a) of the definition of *Commission of inquiry*)**

After “1908”, insert “(as in force immediately before its repeal)”.

#### **2 Paragraph 22(5)(b)**

Repeal the paragraph, substitute:

- (b) the Agriculture Minister (within the meaning of the *Biosecurity Act 2015*) is taken to be the responsible Minister in relation to the records of the Commission of inquiry within the meaning of the *Quarantine Act 1908* (as in force immediately before its repeal); and

### *Australian Postal Corporation Act 1989*

#### **3 Section 90E (paragraph (b) of the definition of *compliance agency*)**

Repeal the paragraph, substitute:

- (b) the Agriculture Department (within the meaning of the *Biosecurity Act 2015*);

### *Biological Control Act 1984*

#### **4 Paragraph 5(2)(a)**

Repeal the paragraph, substitute:

- (a) the *Biosecurity Act 2015*; or

### *Customs Act 1901*

#### **5 Subsection 4(1) (definition of *AQIS*)**

Repeal the definition.

**6 Paragraph 5A(5)(a)**

Omit “matters of quarantine”, substitute “biosecurity risks (within the meaning of the *Biosecurity Act 2015*)”.

**7 Paragraph 5A(5)(b)**

Omit “for quarantine purposes”, substitute “for purposes relating to biosecurity risks (within the meaning of the *Biosecurity Act 2015*)”.

**8 Paragraph 5B(5)(a)**

Omit “matters of quarantine”, substitute “biosecurity risks (within the meaning of the *Biosecurity Act 2015*)”.

**9 Paragraph 5B(5)(b)**

Omit “for quarantine purposes”, substitute “for purposes relating to biosecurity risks (within the meaning of the *Biosecurity Act 2015*)”.

***Customs Administration Act 1985***

**10 After paragraph 16(9)(h)**

Insert:

(ha) a purpose relating to matters covered by the *Biosecurity Act 2015*;

***Environment Protection and Biodiversity Conservation Act 1999***

**11 Subsection 303EB(6)**

Omit “in accordance with the *Quarantine Act 1908*”, substitute “not inconsistent with the *Biosecurity Act 2015*”.

**12 Subsection 303EB(11A)**

Repeal the subsection, substitute:

(11A) Part 2 of the list is taken to include a live plant that is a CITES specimen the introduction of which into Australia is not inconsistent with the *Biosecurity Act 2015*.

**13 Paragraph 303GV(1)(b)**

Repeal the paragraph, substitute:

(b) the *Biosecurity Act 2015*;

**14 Subsection 303GV(3)**

Omit “*Quarantine Act 1908*”, substitute “*Biosecurity Act 2015*”.

**15 Paragraph 303GW(5)(a)**

Omit “Director of Animal and Plant Quarantine”, substitute “Director of Biosecurity”.

**16 Subsection 303GW(6)**

Omit “*Quarantine Act 1908*”, substitute “*Biosecurity Act 2015*”.

**17 Subsection 303GW(6)**

Before “subject to quarantine”, insert “subject to biosecurity control under the *Biosecurity Act 2015* or”.

**18 Paragraphs 397(3)(c) and (d)**

Repeal the paragraphs, substitute:

(c) each biosecurity officer (within the meaning of the *Biosecurity Act 2015*).

**19 Paragraph 524(3)(g)**

Repeal the paragraph, substitute:

(g) the *Biosecurity Act 2015*;

**20 Section 528**

Insert:

*Director of Biosecurity* has the same meaning as in the *Biosecurity Act 2015*.

**21 Section 528 (definition of *disease*)**

Repeal the definition.

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### ***Fisheries Management Act 1991***

#### **22 Paragraph 106D(1)(b)**

Omit “safety, public health or quarantine”, substitute “safety or public health”.

#### **23 After paragraph 106D(1)(b)**

Insert:

- (ba) the boat poses an unacceptable level of biosecurity risk (within the meaning of the *Biosecurity Act 2015*); or

### ***Freedom of Information Act 1982***

#### **24 Subsection 4(1) (paragraph (a) of the definition of *Commission of inquiry*)**

After “1908”, insert “(as in force immediately before its repeal)”.

#### **25 Paragraph 13(3)(b)**

Repeal the paragraph, substitute:

- (b) records of the Commission of inquiry (within the meaning of the *Quarantine Act 1908*, as in force immediately before its repeal) 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 Agriculture Department (within the meaning of the *Biosecurity Act 2015*); and

### ***Imported Food Control Act 1992***

#### **26 Paragraph 6(a)**

Repeal the paragraph, substitute:

- (a) the *Biosecurity Act 2015*; or

### ***Industry Research and Development Act 1986***

#### **27 Paragraph 28D(4)(b)**

After “contravene”, insert “the *Biosecurity Act 2015* or”.

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***Maritime Powers Act 2013***

**28 Paragraph 91(2)(c)**

Omit “quarantine,”.

**29 After paragraph 91(2)(c)**

Insert:

(ca) the thing poses an unacceptable level of biosecurity risk (within the meaning of the *Biosecurity Act 2015*); or

***Maritime Transport and Offshore Facilities Security Act 2003***

**30 Section 10**

Insert:

*biosecurity officer* has the same meaning as in the *Biosecurity Act 2015*.

**31 Section 10 (definition of *quarantine officer*)**

Repeal the definition.

**32 Paragraph 146(e)**

Omit “quarantine officers”, substitute “biosecurity officers”.

**33 Paragraph 147(1)(e)**

Omit “quarantine officer”, substitute “biosecurity officer”.

***Migration Act 1958***

**34 Subparagraph 488(2)(a)(iv)**

After “relating to”, insert “biosecurity risks (within the meaning of the *Biosecurity Act 2015*)”.

**35 Paragraph 488(2)(d)**

Repeal the paragraph, substitute:

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- (d) authorise a biosecurity officer (within the meaning of the *Biosecurity Act 2015*) to perform for the purposes of a law relating to biosecurity risks (within the meaning of that Act), or a law relating to quarantine or health, one or more of those actions; or

### ***National Health Act 1953***

#### **36 Subsection 9B(10)**

Omit “conferred on the Minister by the *Quarantine Act 1908*”, substitute “that may be exercised by the Minister under the *Biosecurity Act 2015*”.

### ***National Health Security Act 2007***

#### **37 Subsection 3(1)**

Insert:

*Australian territory* has the meaning given by section 12 of the *Biosecurity Act 2015*.

*listed human disease* has the meaning given by section 42 of the *Biosecurity Act 2015*.

#### **38 Subsection 3(1) (paragraph (a) of the definition of *public health event of national significance*)**

After “cases”, insert “or potential cases”.

#### **39 At the end of section 8**

Add:

- ; (e) preventing, or reducing the possibility of, a listed human disease entering, or emerging, establishing itself or spreading in, Australian territory or a part of Australian territory;
- (f) preventing a listed human disease from spreading to another country.

#### **40 Division 6 of Part 2 (heading)**

Repeal the heading, substitute:

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**Division 6—Notification, sharing information and liaising  
in relation to public health events of national  
significance and listed human diseases**

**41 Section 13 (heading)**

Repeal the heading, substitute:

**13 Notification, sharing information and liaising in relation to public  
health events of national significance and listed human  
diseases**

**42 At the end of section 13**

Add:

*Cases of listed human diseases*

- (5) The Minister may take action under subsection (6) if:
- (a) a responsible Commonwealth, State or Territory body gives the National Focal Point information relating to one or more cases or potential cases of a listed human disease; or
  - (b) the Minister considers that it is appropriate to take action under subsection (6) for a permissible purpose referred to in paragraph 8(e) or (f).
- (6) The Minister may:
- (a) notify any responsible Commonwealth, State or Territory body that is affected, or might be affected, by the case or potential case of the listed human disease; and
  - (b) give such bodies any relevant information that is available to the Minister in relation to the case or potential case of the listed human disease; and
  - (c) liaise with such bodies in relation to the case or the potential case of the listed human disease.

***National Residue Survey (Customs) Levy Act 1998***

**43 Paragraph 2(2)(b) of Schedule 2**

Omit “longest”, substitute “longer”.

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**44 Subparagraph 2(2)(b)(ii) of Schedule 2**

Repeal the subparagraph.

**45 Paragraph 2(2)(b) of Schedule 5**

Omit “longest”, substitute “longer”.

**46 Subparagraph 2(2)(b)(ii) of Schedule 5**

Repeal the subparagraph.

***Plant Breeder’s Rights Act 1994***

**47 Subsection 3(1)**

Insert:

*biosecurity control order* has the same meaning as in the *Biosecurity Act 2015*.

*biosecurity response zone* has the same meaning as in the *Biosecurity Act 2015*.

*biosecurity response zone determination* has the same meaning as in the *Biosecurity Act 2015*.

*release from biosecurity control* has the same meaning as in the *Biosecurity Act 2015*.

*subject to biosecurity control* has the same meaning as in the *Biosecurity Act 2015*.

**48 Subsection 34(7)**

Repeal the subsection, substitute:

- (7) Subsection (6) does not apply to an applicant if, when the examination fee would become payable apart from this subsection:
- (a) the plant variety to which the application relates is subject to biosecurity control; or
  - (b) a biosecurity control order is in force in relation to the plant variety to which the application relates; or

- (c) a biosecurity response zone determination is in force and the plant variety to which the application relates is in the biosecurity response zone.
- (8) If subsection (7) applies, the applicant must pay the prescribed examination fee within 12 months after (as the case requires):
  - (a) the plant variety is released from biosecurity control; or
  - (b) the biosecurity control order ceases to be in force in relation to the plant variety; or
  - (c) the biosecurity response zone determination ceases to be in force.

### ***Primary Industries (Customs) Charges Act 1999***

#### **49 Paragraph 2(2)(b) of Schedule 3**

Omit “longest”, substitute “longer”.

#### **50 Subparagraph 2(2)(b)(ii) of Schedule 3**

Repeal the subparagraph.

#### **51 Paragraph 2(3)(b) of Schedule 12**

Omit “longest”, substitute “longer”.

#### **52 Subparagraph 2(3)(b)(ii) of Schedule 12**

Repeal the subparagraph.

### ***Privacy Act 1988***

#### **53 Subsection 6(1) (paragraph (a) of the definition of *Commission of inquiry*)**

After “1908”, insert “(as in force immediately before its repeal)”.

### ***Torres Strait Fisheries Act 1984***

#### **54 Paragraph 52D(1)(b)**

Omit “safety, public health or quarantine”, substitute “safety or public health”.

**55 After paragraph 52D(1)(b)**

Insert:

- (ba) the boat poses an unacceptable level of biosecurity risk (within the meaning of the *Biosecurity Act 2015*); or

## Schedule 3—Transitional provisions commencing on Royal Assent

### 1 Determination of first points of entry

*Determination may be made without usual prerequisites*

- (1) Despite subsections 223(2) and 229(2) of the Biosecurity Act, the Director of Biosecurity or the Director of Human Biosecurity:
- (a) may make a determination under subsection 223(1) of that Act in relation to a landing place even if the Director is not satisfied of the matters referred to in subsection 223(2) of that Act in relation to the landing place; and
  - (b) may make a determination under subsection 229(1) of that Act in relation to a port even if the Director is not satisfied of the matters referred to in subsection 229(2) of that Act in relation to the port.

Note: The Director may make the determination before the commencement of section 223 or 229 of the Biosecurity Act, relying on section 4 of the *Acts Interpretation Act 1901*. The determination will come into effect on or after that commencement.

*Limited life of determination made relying on subitem (1)*

- (2) If the Director of Biosecurity or the Director of Human Biosecurity:
- (a) makes a determination under subsection 223(1) of the Biosecurity Act in relation to a landing place without being satisfied of the matters referred to in subsection 223(2) of that Act in relation to the landing place; or
  - (b) makes a determination under subsection 229(1) of the Biosecurity Act in relation to a port without being satisfied of the matters referred to in subsection 229(2) of that Act in relation to the port;

then the determination must not be expressed or varied to have effect for a period that is longer than the transition period or, if the transition period has been extended under subitem (4) for the landing place or port, the extended transition period.

- (3) Unless it has already ceased to have effect, a determination referred to in subitem (2) relating to a landing place or port ceases to have effect at the end of the transition period or, if the transition period has been extended under subitem (4) for the landing place or port, the extended transition period.

*Extending life of determination made relying on subitem (1)*

- (4) If the Director of Biosecurity or the Director of Human Biosecurity is satisfied that:
- (a) the requirements referred to in subsection 223(2) of the Biosecurity Act will not be able to be met in relation to a landing place referred to in subitem (2) by the end of the transition period; or
  - (b) the requirements referred to in subsection 229(2) of the Biosecurity Act will not be able to be met in relation to a port referred to in subitem (2) by the end of the transition period;
- the relevant Director may, by legislative instrument, extend the transition period in relation to the landing place or port.
- (5) Section 42 (disallowance) of the *Legislative Instruments Act 2003* does not apply to an instrument made under subitem (4).

*Definitions*

- (6) In this item:
- Biosecurity Act** means the *Biosecurity Act 2015*.
- Director of Biosecurity** has the same meaning as in the Biosecurity Act.
- Director of Human Biosecurity** has the same meaning as in the Biosecurity Act.
- landing place** has the same meaning as in the Biosecurity Act.
- port** has the same meaning as in the Biosecurity Act.
- transition period** means the 3 years beginning on the day on which section 3 of the Biosecurity Act commences.

*Operation before commencement of certain provisions of the  
Biosecurity Act*

- (7) To avoid doubt, this item operates before the commencement of sections 9, 223, 229, 540 and 544 of the Biosecurity Act in the same way as this item would if those sections had commenced.

Note: Sections 9, 540 and 544 of the Biosecurity Act define *Director of Biosecurity*, *Director of Human Biosecurity*, *landing place* and *port*.

## **Schedule 4—Application, saving and transitional provisions commencing later**

### **Part 1—Preliminary**

#### **1 Definitions**

- (1) In this Schedule:

**Biosecurity Act** means the *Biosecurity Act 2015*.

**cessation time**:

- (a) for a transitional approved arrangement that is taken to exist because of subitem 47(2)—has the meaning given by subitem 47(4); and
- (b) for a transitional approved arrangement that is taken to exist because of subitem 52(3)—has the meaning given by subitem 52(4).

**commencement day** means the day on which section 3 of the Biosecurity Act commences.

**Quarantine Act** means the *Quarantine Act 1908*.

**released from quarantine** means released from quarantine under the Quarantine Act.

**subject to quarantine** means subject to quarantine under the Quarantine Act.

**under**, in relation to the Quarantine Act, has the meaning given by subsection 5(1A) of that Act immediately before its repeal.

- (2) An expression used in a provision of this Schedule and in the Biosecurity Act has the same meaning in that provision as it has in the Biosecurity Act, subject to subitem (3).
- (3) An expression used in a provision of this Schedule and in the Quarantine Act has the same meaning in that provision as it had in the Quarantine Act to the extent that:
- (a) the use of the expression in that provision relates to an event that occurred, or a state of affairs that existed, under the Quarantine Act before the commencement day; or



## **Part 2—Managing biosecurity risks: goods**

### **Division 1—Goods brought into Australian territory or otherwise subject to quarantine**

#### **3 Goods brought into Australian territory or otherwise subject to quarantine before commencement day**

- (1) For the purposes of the Biosecurity Act, goods in Australian territory at the beginning of the commencement day are taken to become subject to biosecurity control then if:
- (a) the goods had been brought into Australian territory on an aircraft or vessel that had entered Australian territory before the commencement day during a flight or voyage that commenced outside Australian territory; and
  - (b) any of the following subparagraphs applied to the goods immediately before the commencement day:
    - (i) the goods had not been unloaded from the aircraft or vessel;
    - (ii) the goods were within the precincts of a landing place or port;
    - (iii) the goods were subject to quarantine and were at a place approved under subsection 46A(1) of the Quarantine Act;
    - (iv) the goods were subject to quarantine and were subject to the application of procedures in accordance with a compliance agreement under section 66B of the Quarantine Act;
    - (v) the goods had been ordered, or were taken to have been ordered, into quarantine under the Quarantine Act;
    - (vi) the goods were in a quarantine station, or other quarantine or biosecurity facility, in accordance with a law of the Commonwealth or a State or Territory relating to quarantine or biosecurity;
    - (vii) the goods were under quarantine surveillance under section 52 of the Quarantine Act; and

- (c) the goods had not been released from quarantine after the most recent time one of the subparagraphs of paragraph (b) started to apply to the goods.
- (2) For the purposes of the Biosecurity Act, goods in Australian territory are also taken to become subject to biosecurity control at the beginning of the commencement day if, immediately before that day, the goods were subject to quarantine and there was in force one of the following that had not been fully complied with:
  - (a) a notice under subsection 16AF(1) of the Quarantine Act authorising the goods to be brought into Australia, the Cocos Islands or Christmas Island and requiring a person to do a specified thing;
  - (b) a condition, of a written permission under paragraph 20D(2)(b) or subsection 29(4), 29A(3) or 44B(6) or (7) of the Quarantine Act relating to the goods, that a person do a specified thing;
  - (c) a direction under subsection 29B(1) or 44A(4), paragraph 48(2)(b), subsection 48AB(1), 48AC(1), 48AD(1) or 74D(1) of the Quarantine Act relating to the goods.
- (3) For the purposes of the Biosecurity Act, goods in Australian territory are also taken to become subject to biosecurity control at the beginning of the commencement day if:
  - (a) a direction relating to the goods had been given under subsection 48(1), (3) or (6) or 70D(2) of the Quarantine Act before that day (whether or not it had been fully complied with before that day); and
  - (b) the goods were subject to quarantine immediately before that day.

#### **4 Application of section 119 of the Biosecurity Act**

- (1) Section 119 of the Biosecurity Act applies in relation to goods that are brought into Australian territory on an aircraft or vessel that enters Australian territory or after the commencement day during a flight or voyage that commenced outside Australian territory.
- (2) Subsections 119(3) and (4) of the Biosecurity Act also apply in relation to goods that are taken under item 3 to have become subject to

biosecurity control. This has effect despite subsection 119(1) of that Act.

## **5 Notice of proposed importation of goods**

(1) If:

- (a) a person had given a notice of a proposed importation of goods into Australia, the Cocos Islands or Christmas Island, under subsection 16AC(1) of the Quarantine Act; and
- (b) the goods were not imported into Australia, the Cocos Islands or Christmas Island, before the commencement day;

then the notice has effect, on and after the commencement day, as if it had been given in relation to the goods in accordance with subsection 120(1) of the Biosecurity Act.

(2) If:

- (a) a person had imported goods into Australia, the Cocos Islands or Christmas Island before the commencement day; and
- (b) notice of the proposed importation of the goods had not been given under subsection 16AC(1) or (2) of the Quarantine Act before that day;

then a notice in relation to the goods must be given in accordance with section 120 of the Biosecurity Act.

## **6 Notice requiring additional information about goods**

If:

- (a) a written notice had been given to a person under subsection 16AD(1) of the Quarantine Act requiring the person to give information about particular goods; and
- (b) the notice was in force immediately before the commencement day;

then the requirement in the notice has effect, on and after the commencement day, as if it had been made by a biosecurity officer under subsection 126(1) of the Biosecurity Act.

## **7 Notice to do specified thing in relation to goods**

(1) This item applies if:

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- (a) a notice had been given to a person under subsection 16AF(1) of the Quarantine Act requiring the person to do a specified thing in relation to goods that had been ordered into quarantine; and
  - (b) the requirement in the notice had not been complied with before the commencement day; and
  - (c) the goods had not been released from quarantine before the commencement day.
- (2) Despite the repeal of the Quarantine Act by this Act:
  - (a) the person must comply with the requirement in the notice; and
  - (b) subsection 16AF(3) of that Act continues to apply in relation to the requirement.
- (3) If:
  - (a) complying with the requirement in the notice was a condition of the goods being released from quarantine; and
  - (b) the person complies with the requirement on or after the commencement day; and
  - (c) apart from this Act, the goods would have been released from quarantine at a particular time (the *release time*) wholly or partly because of that compliance; and
  - (d) immediately before that time the goods were subject to biosecurity control because, under subitem 3(2), they were taken to become subject to biosecurity control at the beginning of the commencement day;

the goods are taken for the purposes of the Biosecurity Act to be released from biosecurity control by notification under paragraph 162(1)(a) of that Act at the release time.

## **8 Unloading goods at landing place or port at which aircraft or vessel has arrived**

- (1) This item applies in relation to goods brought into Australian territory on an aircraft or vessel that entered Australian territory before the commencement day during a flight or voyage that commenced outside Australian territory if:
  - (a) the aircraft or vessel has arrived at a landing place or port in Australian territory that was declared under the Quarantine

Act to be a port at which goods of that kind or description were permitted to be landed; and

- (b) the goods are on board the aircraft or vessel that brought them into Australian territory; and
- (c) the goods are intended to be unloaded from the aircraft or vessel at that landing place or port.

Note: The goods will be subject to biosecurity control because of item 3.

- (2) If the landing place or port is not a first point of entry for the goods, the Biosecurity Act applies as if the landing place or port were a first point of entry for the goods.
- (3) If there is a biosecurity entry point at the landing place or port for the goods but the goods have not been brought to that biosecurity entry point, the Biosecurity Act applies as if the place where the goods have been brought were a biosecurity entry point for the goods.

Note: See section 147 of the Biosecurity Act.

## **9 Permission to land goods at place other than declared port**

- (1) This item applies if:
  - (a) a person had been given permission under paragraph 20D(2)(b) of the Quarantine Act for goods to be landed at a place; and
  - (b) the permission was in force immediately before the commencement day.
- (2) The permission has effect, on and after the commencement day:
  - (a) as if it were a permission given under subsection 146(2) of the Biosecurity Act for the goods to be unloaded at that place; and
  - (b) if the permission was subject to any conditions—subject to those conditions.
- (3) If the permission has not ceased to be in force before the end of 1 year beginning on the commencement day, the permission ceases to be in force at the end of that period.

## **10 Permission to allow goods to be removed from vessel or installation**

- (1) Subitem (2) applies if:
  - (a) the master of a vessel or an installation had been given permission under subsection 29(4) of the Quarantine Act to allow another person to remove goods from the vessel or installation during a specified period; and
  - (b) the permission was subject to a condition; and
  - (c) the period had not ended before the commencement day.
- (2) Despite the repeal of the Quarantine Act by this Act:
  - (a) the permission and the condition continue to have effect; and
  - (b) subsection 29(5) of that Act continues to apply in relation to the permission and the condition.
- (3) Subitem (4) applies if:
  - (a) the master of a vessel or an installation had been given permission under subsection 29A(3) of the Quarantine Act to allow another person to remove goods from the vessel or installation during a specified period; and
  - (b) the permission was subject to a condition; and
  - (c) the period had not ended before the commencement day.
- (4) Despite the repeal of the Quarantine Act by this Act:
  - (a) the permission and the condition continue to have effect; and
  - (b) subsections 29A(4) and (4A) of that Act continue to apply in relation to the permission and the condition.

## **11 Directions relating to movement of animals on aircraft or vessels**

If:

- (a) a person had been given a direction in relation to an animal under paragraph 29B(1)(a) of the Quarantine Act; and
- (b) the direction was in force immediately before the commencement day;

then the direction has effect, on and after the commencement day, as if it were a direction given to the person under subparagraph 128(1)(a)(iii) of the Biosecurity Act.

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## **12 Goods on board aircraft or vessel that was in quarantine**

### *Direction not to unload goods*

- (1) If:
- (a) goods are on board an aircraft or vessel that was in quarantine under the Quarantine Act immediately before the commencement day; and
  - (b) the goods are subject to biosecurity control because of item 3;

then a biosecurity officer is taken to have given the person in charge of the aircraft or vessel a direction under subsection 143(3) of the Biosecurity Act at the beginning of the commencement day not to allow the goods to be unloaded from the aircraft or vessel.

### *Receiving or possessing goods unloaded in contravention of Quarantine Act*

- (2) Without limiting its effect apart from this subitem, section 149 of the Biosecurity Act also has the effect it would have if:
- (a) the heading were amended by adding at the end “or the *Quarantine Act 1908*”; and
  - (b) subparagraph (1)(b)(ii) were amended by inserting “or section 44 of the *Quarantine Act 1908*” after “subsection 145(1)”; and
  - (c) paragraph (2)(b) were amended by inserting “or section 44 of the *Quarantine Act 1908*” after “subsection 145(1)”.

## **13 Direction not to unload certain goods that were subject to quarantine**

If:

- (a) a person had been given a direction under subsection 44A(4) of the Quarantine Act not to unload goods from a vessel; and
- (b) the direction was in force immediately before the commencement day;

then the direction has effect, on and after the commencement day, as if it were a direction given to the person under subsection 144(3) of the Biosecurity Act.

#### 14 Permission to do relevant act in relation to goods that were subject to quarantine

If:

- (a) a person had been given permission under subsection 44B(6) or (7) of the Quarantine Act to do a relevant act in relation to goods; and
- (b) the permission was in force immediately before the commencement day; and
- (c) the goods are subject to biosecurity control because of item 3;

then the permission has effect, on and after the commencement day, as if it were a permission given to the person under section 557 of the Biosecurity Act to do the relevant act in relation to the goods.

#### 15 Directions about movement of goods

On and after the commencement day, a direction or notice that:

- (a) was in force immediately before that day; and
- (b) was given to a person under a provision of the Quarantine Act described in column 1 of an item of the following table; and
- (c) was of a kind described in column 2 of the item; and
- (d) related to goods that are of a kind described in column 3 of the item;

has effect as if it were a direction given to the person under paragraph 138(1)(a) of the Biosecurity Act to carry out a biosecurity measure required under section 132 of that Act in relation to the goods.

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<b>Directions and notices relating to movement of goods</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision of Quarantine Act</b>	<b>Kind of direction or notice</b>	<b>Kind of goods</b>
1 Paragraph 48(1)(b) or subsection 48(3) or 48(6)	Direction: (a) that goods be taken to a place and detained there in a specified manner and for a specified period; or (b) that relates to the extent to	Goods that: (a) had been ordered into quarantine under the Quarantine Act; and (b) had not been

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<b>Directions and notices relating to movement of goods</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision of Quarantine Act</b>	<b>Kind of direction or notice</b>	<b>Kind of goods</b>
	which goods may be moved, dealt with or interfered with; or (c) that goods be detained at a vessel, installation, quarantine station or other place, in a specified manner and for a specified period	released from quarantine before the commencement day
2 Subsection 52(5A)	Direction relating to the movement of an animal	Animal that was under quarantine surveillance under subsection 52(3) of the Quarantine Act
3 Subsection 56(1)	Electronic notice including under paragraph 56(2)(d) or (e) of the Quarantine Act a requirement relating to the movement of goods	Goods that were in quarantine immediately before the commencement day in accordance with the notice
4 Paragraph 70D(2)(a), (b) or (c)	Direction relating to the leaving or movement of goods	Goods that were subject to quarantine

## **16 Directions to treat goods**

On and after the commencement day, a direction or notice that:

- (a) was in force immediately before that day; and
- (b) was given to a person under a provision of the Quarantine Act described in column 1 of an item of the following table; and
- (c) was of a kind described in column 2 of the item; and
- (d) related to goods that are of a kind described in column 3 of the item;

has effect as if it were a direction given to the person under paragraph 138(1)(a) of the Biosecurity Act to carry out a biosecurity measure required under subsection 133(1) of that Act in relation to the goods.

**Schedule 4** Application, saving and transitional provisions commencing later  
**Part 2** Managing biosecurity risks: goods

<b>Directions and notices relating to treatment of goods</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision of Quarantine Act</b>	<b>Kind of direction or notice</b>	<b>Kind of goods</b>
1 Paragraph 48(2)(b)	Direction to cause goods to be treated in a specified manner	Goods that: (a) had been ordered into quarantine under the Quarantine Act; and (b) had not been released from quarantine before the commencement day
2 Subsection 48AB(1)	Direction to treat goods in a stated manner	Animal, plant or other goods
3 Subsection 48AC(1)	Direction to cause a plant, part of a plant, soil or seed to be treated in a specified manner	Plant, part of a plant, soil or seed
4 Subsection 48AD(1)	Direction to treat package, packing material or other waste material	Package, packing material or other waste material situated at a place
5 Subsection 52(5A)	Direction requiring an animal to be treated in a specified manner	Animal that was under quarantine surveillance under subsection 52(3) of the Quarantine Act
6 Subsection 56(1)	Electronic notice including under paragraph 56(2)(c) of the Quarantine Act a requirement to cause goods to be treated in a specified manner	Goods that were in quarantine immediately before the commencement day in accordance with the notice
7 Subsection 74D(1)	Direction to take measures in respect of goods to prevent the introduction, establishment or spread of a disease or pest	Goods that: (a) either are infected or were subject to quarantine; and (b) are being, or will

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**Directions and notices relating to treatment of goods**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision of Quarantine Act</b>	<b>Kind of direction or notice</b>	<b>Kind of goods</b>
		be, carried on a vehicle or vessel

**17 Directions to destroy goods**

On and after the commencement day, a direction that:

- (a) was in force immediately before that day; and
- (b) was given to a person under a provision of the Quarantine Act described in column 1 of an item of the following table; and
- (c) was of a kind described in column 2 of the item; and
- (d) related to goods that are of a kind described in column 3 of the item;

has effect as if it were a direction given to the person under paragraph 138(1)(a) of the Biosecurity Act to carry out a biosecurity measure required under subsection 136(1) of that Act in relation to the goods.

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**Directions relating to destruction of goods**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision of Quarantine Act</b>	<b>Kind of direction</b>	<b>Kind of goods</b>
1 Paragraph 29B(1)(c)	Direction about disposal of an animal	Animal that was killed, or died, after being brought on board a vessel or installation
2 Subsection 48AD(1)	Direction to destroy or otherwise dispose of package, packing material or other waste material	Package, packing material or other waste material situated at a place

**18 Directions in relation to goods ordered into quarantine**

- (1) This item applies in relation to goods that:

- (a) had been ordered into quarantine under the Quarantine Act; and
- (b) had not been released from quarantine before the commencement day.

*Direction that goods be detained where they are*

(2) If:

- (a) a direction had been given to a person under paragraph 48(1)(a) of the Quarantine Act that the goods be detained on board a vessel or installation, or at premises, in a specified manner and for a specified period; and
- (b) the direction was in force immediately before the commencement day;

then the direction has effect, on and after the commencement day, as if it were a direction given to the person under subsection 124(1) of the Biosecurity Act to secure the goods on board the vessel or installation, or at the premises, in the specified manner and for the specified period.

*Direction that goods be exported*

(3) If:

- (a) a direction had been given to a person under paragraph 48(1)(c) of the Quarantine Act that the goods be exported from Australia; and
- (b) the direction was in force immediately before the commencement day;

then the direction has effect, on and after the commencement day, as if it were a direction given to the person under paragraph 135(2)(b) of the Biosecurity Act.

**19 Goods that were required to be destroyed**

(1) This item applies in relation to goods that:

- (a) had been required under subsection 48AA(2) of the Quarantine Act to be destroyed; and
- (b) are subject to biosecurity control because of item 3.

*Ministerial approval not required*

- (2) If the goods could have been destroyed without the written approval of the Minister under subsection 48AA(3) of the Quarantine Act, then the Biosecurity Act applies in relation to the goods as if:
- (a) the goods were not high-value goods; and
  - (b) a biosecurity officer had, under subsection 136(1) of that Act, required the goods to be destroyed.

*Ministerial approval required and given*

- (3) If:
- (a) the goods could not have been destroyed without the written approval of the Minister under subsection 48AA(3) of the Quarantine Act; and
  - (b) the Minister's written approval had been given before the commencement day;
- then the Biosecurity Act applies in relation to the goods as if:
- (c) the goods were high-value goods; and
  - (d) a biosecurity officer had, under subsection 136(1) of that Act, required the goods to be destroyed.

*Ministerial approval required and not given*

- (4) If:
- (a) the goods could not have been destroyed without the written approval of the Minister under subsection 48AA(3) of the Quarantine Act; and
  - (b) the Minister's written approval had not been given before the commencement day;
- then the Biosecurity Act applies in relation to the goods as if they were high-value goods.

Note: The goods may be required to be destroyed under section 136 of the Biosecurity Act.

**20 Treatment required that might damage goods**

- (1) This item applies in relation to goods if:
- (a) the goods had been required under the Quarantine Act to be treated; and

- (b) a quarantine officer had believed on reasonable grounds that the goods could not be effectively treated without being damaged; and
- (c) the goods had not been treated as required before the commencement day.

*Permission for treatment given*

- (2) If the owner of the goods, or the agent of the owner of the goods, had agreed to the treatment before the commencement day, then the Biosecurity Act (other than subsection 133(2) and section 134) applies in relation to the goods as if the treatment of the goods had been required by a biosecurity officer under subsection 133(1) of that Act.

*Permission for treatment requested but not given*

- (3) If:
  - (a) the owner of the goods, or the agent of the owner of the goods, had been given a notice under subsection 48AA(4) of the Quarantine Act; and
  - (b) the owner or agent had not agreed to the treatment before the commencement day; and
  - (c) the goods had not been forfeited to the Commonwealth under subsection 48AA(5) of the Quarantine Act;then the Biosecurity Act (other than subsection 133(2)) applies in relation to the goods as if:
  - (d) the treatment of the goods had been required by a biosecurity officer under subsection 133(1) of that Act; and
  - (e) the notice had been given to a person in charge of the goods under subsection 134(2) of that Act.

Note: Item 24 deals with goods that had been forfeited to the Commonwealth under subsection 48AA(5) of the Quarantine Act.

*Permission for treatment not requested*

- (4) If:
  - (a) the owner of the goods, or the agent of the owner of the goods, had not been given a notice under subsection 48AA(4) of the Quarantine Act; and

- (b) the owner or agent had not agreed to the treatment before the commencement day;

then the Biosecurity Act (other than subsection 133(2)) applies in relation to the goods as if the treatment of the goods had been required by a biosecurity officer under subsection 133(1) of that Act.

## **21 Direction to treat goods exposed to goods that were subject to quarantine**

If:

- (a) a person had been given a direction under subsection 48AB(1) of the Quarantine Act to treat goods; and
- (b) the direction was in force immediately before the commencement day;

then the Biosecurity Act applies in relation to the goods as if an exposed goods order were in force in relation to the goods.

## **22 Direction to treat plant etc.**

If:

- (a) a person had been given a direction under subsection 48AC(1) of the Quarantine Act requiring a plant, a seed or soil to be treated in a specified manner; and
- (b) the direction was in force immediately before the commencement day;

then the plant, seed or soil is taken for the purposes of the Biosecurity Act to be subject to biosecurity control (whether it is also taken under item 3 to become subject to biosecurity control or not).

## **23 Direction to treat or destroy package, packing material or other waste material**

If:

- (a) a person had been given a direction under subsection 48AD(1) of the Quarantine Act to treat, destroy or otherwise dispose of a package, packing material or other waste material; and
- (b) the direction was in force immediately before the commencement day;

then the Biosecurity Act applies in relation to the package, packing material or other waste material as if it were subject to biosecurity control.

## **24 Abandoned or forfeited goods**

(1) If:

- (a) goods had been forfeited to the Commonwealth under subsection 48AA(5) or 48A(1), (2) or (3) of the Quarantine Act; and
- (b) the goods had not been disposed of as permitted by the relevant subsection before the commencement day;

then the Biosecurity Act applies in relation to the goods as if they had been forfeited to the Commonwealth, at the beginning of the commencement day, under subsection 627(2) of that Act.

(2) For the purpose of the application of the Biosecurity Act in relation to goods to which subitem (1) applies, the Director of Biosecurity may, if necessary, take possession of the goods.

(3) If:

- (a) a notification under paragraph 48A(2)(a) of the Quarantine Act had been given to the owner of goods less than 30 days before the commencement day; and
- (b) the owner of the goods had not collected the goods before the commencement day; and
- (c) the owner of the goods does not collect the goods within 30 days after the date on which the notification was given;

then:

- (d) the goods are forfeited to the Commonwealth at the end of that 30-day period; and
- (e) the Biosecurity Act applies in relation to the goods as if the forfeiture had occurred under subsection 627(2) of that Act.

## **25 Goods ordered into quarantine by electronic notice**

Despite the repeal of the Quarantine Act by this Act:

- (a) a notice that:
  - (i) was given to a person under subsection 56(1) of that Act before the commencement day; and

- (ii) was in force immediately before the commencement day; and
  - (iii) ordered goods into quarantine and set out the extent (if any) to which the person may deal with or interfere with the goods; and
  - (iv) related to goods that were in quarantine immediately before the commencement day;  
continues to have effect to the extent that it set out the extent (if any) to which the person may deal with or interfere with the goods; and
- (b) subsection 56(5) of that Act continues to apply to a notice described in paragraph (a) of this item:
- (i) to the extent that the notice set out the extent (if any) to which the person may deal with or interfere with the goods; and
  - (ii) as if paragraph (c) of that subsection referred to biosecurity risk, within the meaning of the Biosecurity Act, instead of quarantine risk.

## **26 Offence of possessing or conveying goods imported in contravention of Quarantine Act**

Despite the repeal of the Quarantine Act, subsection 70C(3) of that Act continues to apply.

## **27 Directions to persons in quarantine stations etc. to undergo decontamination**

If:

- (a) a person had been given a direction under subsection 70E(1) or (2) of the Quarantine Act to subject himself or herself to decontamination; and
- (b) the direction was in force immediately before the commencement day;

then the direction has effect, on and after the commencement day, as if it were a direction given to the person under paragraph 559(4)(a) of the Biosecurity Act.

## **28 Notices affixed to goods by quarantine officer**

If:

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- (a) a notice had been affixed on goods under paragraph 74(1)(b) of the Quarantine Act; and
- (b) the notice had not been removed from the goods before the commencement day;

then the notice has effect, on and after the commencement day, as if:

- (c) the notice were a biosecurity control notice affixed to the goods under subsection 129(1) of the Biosecurity Act; and
- (d) a reference in the notice to the *Quarantine Act 1908* were a reference to the *Biosecurity Act 2015*; and
- (e) a reference in the notice to quarantine risk were a reference to biosecurity risk; and
- (f) a reference in the notice to the level of quarantine risk were a reference to the level of biosecurity risk.

## **Division 2—Import permits**

### **29 Import permits in force before the commencement day**

If:

- (a) a person had been granted a permit by a Director of Quarantine to import goods into Australia, the Cocos Islands or Christmas Island; and
- (b) the permit was in force immediately before the commencement day;

then the permit has effect, on and after the commencement day:

- (c) as if it were a permit granted to the person by the Director of Biosecurity under section 179 of the Biosecurity Act, authorising, for the purposes of that Act, the person, or a person acting on behalf of the person, to import the goods into Australian territory; and
- (d) subject to any conditions specified in the permit; and
- (e) until the end of the period for which it was granted, unless it is earlier varied, suspended or revoked under section 181 of the Biosecurity Act.

### **30 Applications for import permits not decided before the commencement day**

If:

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- (a) an application had been made to a Director of Quarantine, in accordance with regulations made for the purposes of subparagraph 87(1)(ra)(i) of the Quarantine Act, for a permit to import goods into Australia, the Cocos Islands or Christmas Island; and
- (b) no decision on the application had been made before the commencement day;

then the application is taken, on and after the commencement day, to be an application, made under section 177 of the Biosecurity Act at the beginning of the commencement day, for a permit authorising, for the purposes of that Act, the applicant or a person acting on behalf of the applicant, to import the goods into Australian territory.

### **Division 3—Prohibited goods**

#### **31 Goods imported etc. in contravention of Quarantine Act**

- (1) This item applies in relation to animals, plants or other goods that, before the commencement day:
  - (a) had been imported or introduced into, or brought into any port or other place in Australia, the Cocos Islands or Christmas Island; or
  - (b) had been removed from a place to another place as described in paragraph 68(1)(b) of the Quarantine Act; or
  - (c) had been moved, interfered with or dealt with;in contravention of the Quarantine Act.
- (2) If:
  - (a) the animals, plants or other goods had not been seized under subsection 68(2) of the Quarantine Act; and
  - (b) a notice had not been given to a person under subsection 68(3) of that Act;then section 628 of the Biosecurity Act applies to the animals, plants or other goods (despite subsection (1) of that section).
- (3) If:
  - (a) the animals, plants or other goods had not been seized under the Quarantine Act; and

(b) a notice had been given to a person under subsection 68(3) or (8) of that Act (except a notice revoking a notice under subsection 68(3) of that Act);

then:

(c) section 628 of the Biosecurity Act applies to the animals, plants or other goods (despite subsection (1) of that section); and

(d) the person in charge of the animals, plants or other goods is taken to have been notified under subsection 628(4) of that Act.

(4) If, before the commencement day, the animals, plants or other goods had been forfeited to the Commonwealth under paragraph 68(2)(a) or (9)(c) of the Quarantine Act but had not been sold, destroyed, exported or disposed of under section 68 of that Act, subsection 628(5) of the Biosecurity Act applies to the animals, plants or other goods (despite subsection 628(1) of that Act).

## **Part 3—Managing biosecurity risks: conveyances**

### **32 Conveyances in Australian territory on commencement day**

- (1) For the purposes of the Biosecurity Act, a conveyance in Australian territory is taken to become subject to biosecurity control under subsection 191(2) of that Act at the beginning of the commencement day if:
  - (a) the conveyance had entered Australian territory before the commencement day during a flight or voyage that commenced outside Australian territory; or
  - (b) the conveyance was subject to quarantine (including because of subsection 19(1) or (4) or 19AA(1) or (4) of the Quarantine Act) immediately before the commencement day.
- (2) However, a conveyance referred to in paragraph (1)(a) is not taken to become subject to biosecurity control because of subitem (1) if the conveyance:
  - (a) had been ordered, or was taken to have been ordered, into quarantine under the Quarantine Act; and
  - (b) had been released from quarantine; and
  - (c) was not subject to quarantine immediately before the commencement day.

### **33 Application of Biosecurity Act to conveyances in Australian territory on commencement day**

- (1) Section 191 of the Biosecurity Act applies in relation to an aircraft or vessel that enters Australian territory on or after the commencement day during a flight or voyage that commenced outside Australian territory.
- (2) Subsections 191(3) and (4) of the Biosecurity Act also apply to a conveyance that is taken under item 32 to have become subject to biosecurity control. This has effect despite subsection 191(1).
- (3) Despite subitem 32(1), a biosecurity officer must not exercise a power under subsection 206(2) (movement of certain aircraft and vessels) of the Biosecurity Act in relation to a conveyance that is subject to biosecurity control because of that subitem unless the conveyance had

originally entered Australian territory during a journey that commenced outside Australian territory.

- (4) If, because of subitem (3), a biosecurity officer cannot exercise a power under subsection 206(2) of the Biosecurity Act in relation to a conveyance, the biosecurity officer may exercise a power under subsection 207(2) (movement of conveyances) of that Act in relation to the conveyance. This has effect despite subitem 32(1).

### **34 Permissions for aircraft or vessels to be brought to place other than landing place or first port of entry**

- (1) If:
- (a) permission had been given under subsection 20AA(1) of the Quarantine Act for a vessel to be brought to a place (the *alternative place*) other than a first port of entry, a first Cocos Island port of entry, a first Christmas Island port of entry or a landing place; and
  - (b) the permission was in force immediately before the commencement day;
- then the permission has effect, on and after the commencement day:
- (c) as if it were a permission:
    - (i) if the vessel was an aircraft—given under subsection 239(2) of the Biosecurity Act for the aircraft to land at the alternative place; or
    - (ii) if the vessel was not an aircraft—given under subsection 247(2) of the Biosecurity Act for the vessel to be moored at the alternative place; and
  - (d) if the permission was subject to any conditions—subject to those conditions.
- (2) If the permission has not ceased to be in force before the end of 2 years beginning on the commencement day, the permission ceases to be in force at the end of that period.

### **35 Notification of outbreak of disease on aircraft or vessel**

If the master of an aircraft or vessel had notified a quarantine officer of a matter referred to in paragraph 22(2)(a) of the Quarantine Act, then the notification has effect, on and after the commencement day, as if it were a report about the matter given under section 193 of the Biosecurity Act in accordance with subsection 193(2) of that Act.

### **36 Requirement relating to movement of vessel**

If:

- (a) the master of a vessel had been required, under section 25 of the Quarantine Act, to bring the vessel to; and
- (b) the requirement was in force immediately before the commencement day;

then the requirement has effect, on and after the commencement day, as if it were a direction given to the person in charge of the vessel under subparagraph 202(1)(a)(ii) of the Biosecurity Act.

### **37 Pre-arrival reports for vessels**

- (1) This item applies if:
  - (a) a vessel (including an installation) had entered Australian territory before the commencement day, or it is intended that the vessel enter Australian territory on or after that day, during a voyage that commenced outside Australian territory; and
  - (b) information in respect of the vessel had been given to a quarantine officer as required by subsection 27A(2) of the Quarantine Act before the commencement day.
- (2) The operator of the vessel is not required to comply with section 193 of the Biosecurity Act in relation to the vessel.
- (3) If information in respect of the vessel had also been given to a quarantine officer under subsection 27A(3) of the Quarantine Act, the operator of the vessel is not required to comply with section 194 of the Biosecurity Act in relation to that information.
- (4) However, if the person in charge or the operator of the vessel becomes aware after the commencement day that information given under subsection 27A(2) or (3) of the Quarantine Act was incomplete or

incorrect, then the operator must give the additional or corrected information to a biosecurity officer under section 194 of the Biosecurity Act as soon as practicable.

- (5) For the purposes of subitem (4), section 194 of the Biosecurity Act applies as if a reference to a report in relation to the vessel under section 193 included a reference to information in respect of the vessel under subsection 27A(2) or (3) of the Quarantine Act.

### **38 Pre-arrival reports for aircraft**

- (1) This item applies if:
- (a) an aircraft had entered Australian territory before the commencement day, or it is intended that the aircraft enter Australian territory on or after that day, during a flight that commenced outside Australian territory; and
  - (b) information in respect of the aircraft had been given to a quarantine officer as required by subsection 27B(2) of the Quarantine Act before the commencement day.
- (2) The operator of the aircraft is not required to comply with section 193 of the Biosecurity Act in relation to the aircraft.
- (3) If information in respect of the aircraft had also been given to a quarantine officer under subsection 27B(3) of the Quarantine Act, the operator of the aircraft is not required to comply with section 194 of the Biosecurity Act in relation to that information.
- (4) However, if the person in charge or the operator of the aircraft becomes aware after the commencement day that information given under subsection 27B(2) or (3) of the Quarantine Act was incomplete or incorrect, then the operator must give the additional or corrected information to a biosecurity officer under section 194 of the Biosecurity Act as soon as practicable.
- (5) For the purposes of subitem (4), section 194 of the Biosecurity Act applies as if a reference to a report in relation to the aircraft under section 193 included a reference to information in respect of the aircraft under subsection 27B(2) or (3) of the Quarantine Act.

### **39 Directions about movement of conveyances**

- (1) This item applies to a direction that:
  - (a) was in force immediately before the commencement day; and
  - (b) was given under subsection 36(1) or (2), 74D(1) or 78B(1) of the Quarantine Act to a person in charge of a conveyance that is taken under item 32 of this Schedule to have become subject to biosecurity control at the beginning of the commencement day (whether because of paragraph (1)(a) of that item or not).
- (2) To the extent that the direction relates to movement of the conveyance, the direction has effect on and after the commencement day as if it were a direction given to the person in charge of the conveyance under paragraph 206(2)(a) of the Biosecurity Act.

### **40 Movement of conveyance in quarantine**

- (1) This item applies in relation to a conveyance that was in quarantine immediately before the commencement day.
- (2) A biosecurity officer is taken to have given the person in charge of the conveyance a direction under subparagraph 202(1)(a)(iii) of the Biosecurity Act at the beginning of the commencement day not to allow the conveyance to be moved.

Note: Section 40 of the Quarantine Act would have applied in relation to the conveyance immediately before the commencement day.

- (3) If:
  - (a) a person had been given permission under subsection 40(2) of the Quarantine Act for the conveyance to be moved; and
  - (b) the permission was in force immediately before the commencement day;then the permission has effect, on and after the commencement day, as if it were a permission given to the person under section 557 of the Biosecurity Act to move the conveyance.

### **41 Directions to treat conveyances**

- (1) This item applies to a direction that:
    - (a) was in force immediately before the commencement day; and
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- (b) either:
- (i) was given under subsection 48AB(3) or (3A) of the Quarantine Act to a person in charge of a conveyance; or
  - (ii) was given under subsection 74D(1) of the Quarantine Act to a person in charge of a conveyance that is taken under item 32 of this Schedule to have become subject to biosecurity control at the beginning of the commencement day.
- (2) To the extent that the direction relates to treatment of, or performance of work on, the conveyance, the direction has effect on and after the commencement day as if it were a direction given to the person in charge of the conveyance under paragraph 213(1)(a) of the Biosecurity Act to carry out a biosecurity measure required under subsection 208(1) of that Act.
- (3) Also, if the direction was given under subsection 48AB(3) or (3A) of the Quarantine Act, the Biosecurity Act applies in relation to the conveyance as if it were an exposed conveyance that is subject to biosecurity control.

#### **42 Notices affixed to conveyances by quarantine officer**

If:

- (a) a notice had been affixed on a part of a conveyance under paragraph 74(1)(a) of the Quarantine Act; and
- (b) the notice had not been removed from the conveyance before the commencement day;

then the notice has effect, on and after the commencement day, as if:

- (c) the notice were a biosecurity control notice affixed to the conveyance under subsection 203(1) of the Biosecurity Act; and
- (d) a reference in the notice to the *Quarantine Act 1908* were a reference to the *Biosecurity Act 2015*; and
- (e) a reference in the notice to quarantine risk were a reference to biosecurity risk; and
- (f) a reference in the notice to the level of quarantine risk were a reference to the level of biosecurity risk.

#### **43 Information about biosecurity requirements to be given to persons on incoming aircraft or vessels**

If:

- (a) an incoming aircraft or vessel arrives, or it is intended that an incoming aircraft or vessel arrive, at a landing place or port in Australian territory on or after the commencement day; and
- (b) notice of the quarantine measures required under the laws of the Commonwealth had been given to a person on board the aircraft or vessel as required by subsection 74AA(1) of the Quarantine Act before the commencement day;

then section 220 of the Biosecurity Act (requirement to give persons on board incoming aircraft and vessels information about biosecurity requirements) is taken to have been complied with in relation to the person.

#### **44 Direction to treat conveyance in insanitary condition etc.**

- (1) This item applies if:
  - (a) a direction was given to a person under subsection 78A(2) of the Quarantine Act; and
  - (b) the direction was in force immediately before the commencement day.
- (2) Despite the repeal of the Quarantine Act by this Act:
  - (a) the direction continues to have effect; and
  - (b) subsection 78A(4) of the Quarantine Act continues to apply in relation to the direction.

#### **45 Moving an insanitary vessel or things removed from it**

Despite the repeal of the Quarantine Act, if a quarantine officer took an action under paragraph 78C(1)(c) or (d) of that Act before the commencement day:

- (a) subsections 78C(2) and (2A) of that Act continue to apply; and
- (b) permission that was in force immediately before the commencement day to do a thing mentioned in paragraph 78C(2)(b) of that Act continues to have effect.

## **Part 4—Managing biosecurity risks: monitoring, control and response**

### **46 Power to carry out vector monitoring and control activities with consent**

- (1) Section 55E of the Quarantine Act continues to apply, for the 6 months beginning on the commencement day, in relation to private property for which both the following conditions are met:
- (a) the person who owns or controls the property either:
    - (i) gave consent before the commencement day for a quarantine officer (human quarantine), and other persons acting under his or her supervision or control (if any) to enter onto the property and carry out vector monitoring and control activities; or
    - (ii) gives consent not more than 90 days after the commencement day for a biosecurity officer, and other persons acting under his or her supervision or control (if any) to enter onto the property and carry out vector monitoring and control activities;
  - (b) the property is not in a biosecurity monitoring zone under the Biosecurity Act.
- Note: If the property starts to be in a biosecurity monitoring zone at any time in those 6 months, section 55E of the Quarantine Act ceases to apply in relation to the property at that time.
- (2) That section applies for that period as if it referred to a human biosecurity officer instead of a quarantine officer (human quarantine).

## **Part 5—Co-regulatory approvals and compliance agreements**

### **Division 1—Co-regulatory approvals**

#### **47 Co-regulatory approvals in force before commencement day**

##### *Previous approvals continue as transitional approved arrangements*

- (1) This item applies in relation to an approval (the *previous approval*) that was in force under section 46A of the Quarantine Act immediately before the commencement day.

Note: An approval that is taken to have been revoked immediately before the commencement day under item 49 will not be in force for the purposes of this item.

- (2) The previous approval has effect, on and after the commencement day, as if it were an approval (the *corresponding approval*) by the Director of Biosecurity, under section 406 of the Biosecurity Act, of an arrangement that provides for the holder of the previous approval to carry out the activities covered by the previous approval, at the place covered by the previous approval, to manage biosecurity risks associated with the class of goods covered by the previous approval.

Note 1: For the purposes of the Biosecurity Act, the arrangement is an approved arrangement and the holder of the corresponding approval is the biosecurity industry participant covered by the approved arrangement (see sections 10 and 14 of the Biosecurity Act).

Note 2: The approved arrangement may be renewed under item 48, or varied, suspended or revoked under Chapter 7 of the Biosecurity Act.

##### *Approvals given subject to conditions*

- (3) If the previous approval was given subject to one or more conditions, the corresponding approval has effect subject to the same conditions.

##### *Period during which transitional approved arrangement remains in force*

- (4) The approved arrangement (the *transitional approved arrangement*) that is taken to exist because of subitem (2) ceases to be in force at the

time (the *cessation time*) when the relevant previous approval would have ceased to be in force, unless the arrangement:

- (a) is renewed under item 48; or
- (b) is revoked earlier under Part 5 of Chapter 7 of the Biosecurity Act.

#### **48 Renewal of transitional approved arrangement**

- (1) A biosecurity industry participant (the *applicant*) covered by a transitional approved arrangement that is taken to exist because of subitem 47(2) may apply, in writing, to the Director of Biosecurity for renewal of the arrangement. The application must be made:
- (a) within the period of 3 months ending immediately before the cessation time for the arrangement; or
  - (b) if the Director consents, after the end of that period.

Note: An application fee may be required (see item 58).

- (2) If the Director of Biosecurity receives an application in relation to a transitional approved arrangement under subitem (1), the Director may renew the arrangement if the Director is satisfied, having regard to any matter that the Director considers relevant, that:
- (a) the applicant is a fit and proper person (having regard to the matters referred to in section 530 of the Biosecurity Act); and
  - (b) the level of biosecurity risk associated with the operation of the arrangement is acceptable.

Note: See Division 3 for matters relating to dealing with applications.

- (3) The Director of Biosecurity may renew the transitional approved arrangement, subject to any conditions the Director considers appropriate:
- (a) for a period of up to 18 months after the cessation time for the arrangement; or
  - (b) if the Director is satisfied it is appropriate to do so—for a period of up to 3 years after the cessation time for the arrangement.
- (4) If the Director of Biosecurity decides to renew the transitional approved arrangement, the period for which the renewed arrangement remains in force begins, or is taken to have begun, immediately after the cessation time for the arrangement.

- (5) The Director of Biosecurity must notify the applicant, in writing:
- (a) of the Director's decision; and
  - (b) if the decision is to renew the transitional approved arrangement, of:
    - (i) any conditions to which the renewal is subject; and
    - (ii) the period for which the renewed arrangement has been renewed; and
  - (c) if the decision is not to renew the transitional approved arrangement—of the reasons for the decision.
- (6) A decision by the Director of Biosecurity under this item not to renew a transitional approved arrangement is a reviewable decision for the purposes of the Biosecurity Act and the applicant is the relevant person for the reviewable decision.
- (7) Section 530 of the Biosecurity Act applies for the purposes of determining whether a person is a fit and proper person for the purposes of this item (in addition to the other purposes for which that section applies).
- (8) A transitional approved arrangement that is taken to exist because of subitem 47(2) may be renewed only once.

#### **49 Co-regulatory approvals suspended or revoked before commencement day**

- (1) This item applies in relation to an approval under section 46A of the Quarantine Act if:
- (a) the approval had been suspended before the commencement day; or
  - (b) a notice of suspension or revocation of the approval had been given, under subsection 46A(10) of the Quarantine Act, before the commencement day to the person who applied for the approval, but the suspension or revocation had not taken effect before that day.
- (2) The approval is taken to have been revoked immediately before the commencement day.

Note: The holder of the approval may apply under section 405 of the Biosecurity Act for approval of a proposed arrangement to carry out activities to manage biosecurity risks associated with specified goods, premises or other things.

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**50 Notices to take action if co-regulatory approval has expired or is suspended or revoked**

- (1) This item applies if:
  - (a) a person had been given a notice under subsection 46A(11) of the Quarantine Act; and
  - (b) the person had not complied with the notice before the commencement day.
- (2) Despite the repeal of the Quarantine Act by this Act, subsections 46A(11) and (12) of that Act continue to apply in relation to the notice.
- (3) Subsection 46A(11) of the Quarantine Act continues to apply because of subitem (2) as if that subsection referred to the Director of Biosecurity instead of the Director of Quarantine.

**51 Applications for co-regulatory approvals made before commencement day**

- (1) This item applies if:
  - (a) the owner or occupier of a place had made an application to a Director of Quarantine for an approval under section 46A of the Quarantine Act; and
  - (b) any prescribed fee required by that section had been paid before the commencement day; and
  - (c) the Director of Quarantine had not made a decision on the application before that day.
- (2) The application is taken, on and after the commencement day, to be an application to the relevant Director under section 405 of the Biosecurity Act for approval of a proposed arrangement that provides for the applicant to carry out the activities specified in the application, at the place specified in the application, to manage biosecurity risks associated with the class of goods or other things specified in the application.
- (3) Section 435 of the Biosecurity Act applies in relation to the application as if it had been received by the relevant Director on the commencement day.

- (4) The following provisions of the Biosecurity Act do not apply in relation to the application or the proposed arrangement:
- (a) paragraph 406(2)(a) (requirements for proposed arrangements);
  - (b) section 434 (requirements for applications);
  - (c) section 531 (requirement to provide personal information).
- (5) Any fee required to be paid under the Biosecurity Act in relation to an application under section 405 of that Act is taken to have been paid.
- (6) Section 410 of the Biosecurity Act applies in relation to the application as if the following paragraphs were added at the end of subsection (1):
- ; or (c) an application by a person (also the *first person*) for an approval under section 46A of the Quarantine Act (as in force at any time before that Act was repealed) was refused; or
  - (d) an approval held by a person (also the *first person*) under section 46A of the Quarantine Act (as in force at any time before that Act was repealed) was revoked under that section.

## **Division 2—Compliance agreements**

### **52 Compliance agreements in force before commencement day**

#### *Compliance agreements continue as transitional approved arrangements*

- (1) This item applies in relation to a compliance agreement that was in force, or is taken to have been in force under subitem (2), between the Commonwealth and another person (in this Division called the *other party*) under section 66B of the Quarantine Act immediately before the commencement day.

Note: A compliance agreement that is taken to have been cancelled under item 55 immediately before the commencement day will not be in force for the purposes of this item.

- (2) For the purposes of subitem (1), a compliance agreement is taken to have been in force under section 66B of the Quarantine Act immediately before the commencement day if a Director of Quarantine had decided to enter into the compliance agreement with another party

before the commencement day, but the agreement had not been signed by the parties before that day.

- (3) The compliance agreement has effect, on and after the commencement day, as if:
- (a) the agreement were an arrangement approved by the Director of Biosecurity, under section 406 of the Biosecurity Act, that provides for the other party to carry out the procedures covered by the agreement to manage biosecurity risks associated with the goods covered by the agreement; and
  - (b) the other party were the holder of the approval.

Note: For the purposes of the Biosecurity Act, the arrangement is an approved arrangement and the other party is the biosecurity industry participant covered by the approved arrangement (see sections 10 and 14 of the Biosecurity Act).

***Period during which transitional approved arrangement remains in force***

- (4) The approved arrangement (the ***transitional approved arrangement***) that is taken to exist because of subitem (3) remains in force until the end (the ***cessation time***) of the period of 18 months beginning on the commencement day, unless:
- (a) the period is extended under item 53; or
  - (b) the arrangement is revoked earlier under Part 5 of Chapter 7 of the Biosecurity Act; or
  - (c) the arrangement ceases to be in force under subitem (5).
- (5) If:
- (a) a transitional approved arrangement is a compliance agreement that is taken to have been in force under subitem (2); and
  - (b) the arrangement is not signed by the Director of Biosecurity within the period of 90 days beginning on the commencement day;

the arrangement ceases to be in force at the end of that period.

**53 Extension of transitional approved arrangement**

- (1) A biosecurity industry participant (the ***applicant***) covered by a transitional approved arrangement that is taken to exist because of subitem 52(3) may apply, in writing, to the Director of Biosecurity to
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extend the period (the *period of operation*) during which the arrangement remains in force. The application must be made:

- (a) within the period of 3 months ending immediately before the cessation time for the arrangement; or
- (b) if the Director consents, after the end of that period.

Note: An application fee may be required (see item 58).

- (2) If the Director of Biosecurity receives an application in relation to a transitional approved arrangement under subitem (1), the Director may extend the period of operation of the arrangement, for up to 18 months after the cessation time for the arrangement, if the Director is satisfied, having regard to any matter that the Director considers relevant, that:
  - (a) the applicant is a fit and proper person (having regard to the matters referred to in section 530 of the Biosecurity Act); and
  - (b) the level of biosecurity risk associated with the operation of the arrangement is acceptable.

Note: See Division 3 for matters relating to dealing with applications.

- (3) If the Director of Biosecurity decides to extend the period of operation of the transitional approved arrangement, the extended period of operation begins, or is taken to have begun, immediately after the cessation time for the arrangement.
- (4) The Director of Biosecurity must notify the applicant, in writing:
  - (a) of the Director's decision; and
  - (b) if the decision is to extend the period of operation of the transitional approved arrangement—of the extended period of operation; and
  - (c) if the decision is not to extend the period of operation of the transitional approved arrangement—of the reasons for the decision.
- (5) A decision by the Director of Biosecurity under this item not to extend the period of operation of the transitional approved arrangement is a reviewable decision for the purposes of the Biosecurity Act and the applicant is the relevant person for the reviewable decision.
- (6) Section 530 of the Biosecurity Act applies for the purposes of determining whether a person is a fit and proper person for the purposes

of this item (in addition to the other purposes for which that section applies).

- (7) The period of operation of a transitional approved arrangement that is taken to exist because of subitem 52(3) may be extended only once.

#### **54 Additional circumstances for variation, suspension or revocation of transitional approved arrangement**

- (1) This item applies if a compliance agreement that is taken to be a transitional approved arrangement because of subitem 52(3) provided, under subsection 66B(3) of the Quarantine Act, that in the circumstances (the *relevant circumstances*) stated in the agreement, a Director of Quarantine may:
- (a) cancel or vary the agreement; or
  - (b) suspend its operation for a period or until the happening of an event.
- (2) The Director of Biosecurity may, in the relevant circumstances:
- (a) give the biosecurity industry participant covered by the transitional approved arrangement a notice under subsection 413(1) of the Biosecurity Act (variation of an approved arrangement) in relation to the arrangement; or
  - (b) suspend the transitional approved arrangement, or a part of the arrangement; or
  - (c) revoke the transitional approved arrangement.

Note 1: The giving of a notice under subsection 413(1) of the Biosecurity Act would be permitted by paragraph 413(2)(f) of that Act.

Note 2: The powers given by paragraphs (2)(b) and (c) are in addition to the powers conferred by Parts 4 and 5 of Chapter 7 of the Biosecurity Act to suspend or revoke the transitional approved arrangement.

#### ***Suspension of all or part of transitional approved arrangement***

- (3) If the Director of Biosecurity proposes to suspend the transitional approved arrangement, or a part of the arrangement, under paragraph (2)(b), the Biosecurity Act applies in relation to the proposed suspension in the same way as it applies in relation to a proposed suspension of an approved arrangement, or a part of an approved arrangement, on a ground referred to in any of paragraphs 418(1)(a) to (e) of that Act.

Note: See, in particular, subsections 418(2) to (4) of the Biosecurity Act.

- (4) If the Director of Biosecurity suspends the transitional approved arrangement, or a part of the arrangement, under paragraph (2)(b), the Biosecurity Act applies in relation to the suspension as if it had been done under subsection 418(1) of that Act on a ground referred to in any of paragraphs 418(1)(a) to (e) of that Act.

Note 1: See, in particular, sections 419 to 421 of the Biosecurity Act.

Note 2: A decision to suspend the transitional approved arrangement, or a part of the arrangement, under paragraph (2)(b) is a reviewable decision under Part 1 of Chapter 11 of the Biosecurity Act.

#### *Revocation of transitional approved arrangement*

- (5) If the Director of Biosecurity proposes to revoke the transitional approved arrangement under paragraph (2)(c), the Biosecurity Act applies in relation to the proposed revocation in the same way as it applies in relation to a proposed revocation of an approved arrangement on a ground referred to in any of paragraphs 423(1)(a) to (e) of that Act.

Note: See, in particular, subsections 423(2) to (4) of the Biosecurity Act.

- (6) If the Director of Biosecurity revokes the transitional approved arrangement under paragraph (2)(c), the Biosecurity Act applies in relation to the revocation as if it had been done under subsection 423(1) of that Act.

Note 1: See, in particular, sections 424 to 426 of the Biosecurity Act.

Note 2: A decision to revoke the transitional approved arrangement under paragraph (2)(c) is a reviewable decision under Part 1 of Chapter 11 of the Biosecurity Act.

### **55 Compliance agreements suspended or cancelled before commencement day**

- (1) This item applies in relation to a compliance agreement if:
- (a) the agreement was suspended before the commencement day;  
or
  - (b) a notice suspending or cancelling the agreement had been given to the other party to the agreement before the commencement day and the notice had not taken effect before that day.

- (2) The compliance agreement is taken to have been cancelled immediately before the commencement day.

Note: The other party may make an application under section 405 of the Biosecurity Act for approval of a proposed arrangement to carry out biosecurity activities to manage biosecurity risks associated with specified goods, premises or other things.

- (3) If:
- (a) the other party to the compliance agreement had been notified by a Director of Quarantine, in accordance with the compliance agreement, of directions in relation to matters covered by the compliance agreement; and
  - (b) the period during which the directions were required to be complied with had not ended before the commencement day;
- the other party must continue to comply with the directions as if the compliance agreement had not been cancelled under subitem (2).
- (4) Despite the repeal of the Quarantine Act by this Act, subsection 66B(7) of that Act continues to apply in relation to the requirements imposed on the other party by the directions referred to in subitem (3).

## **56 Applications to enter compliance agreement—no decision made before commencement day**

- (1) This item applies if:
- (a) a person had made an application to a Director of Quarantine to enter into a compliance agreement with the Commonwealth under section 66B of the Quarantine Act; and
  - (b) the Director of Quarantine had not made a decision on the application before the commencement day.
- (2) The application is taken, on and after the commencement day, to be an application to the relevant Director, under section 405 of the Biosecurity Act, for approval of a proposed arrangement that provides for the applicant to carry out the procedures specified in the application to manage biosecurity risks associated with the goods or other things specified in the application.
- (3) Section 435 of the Biosecurity Act applies in relation to the application as if it had been received by the relevant Director on the commencement day.

- (4) The following provisions of the Biosecurity Act do not apply in relation to the application or the proposed arrangement:
- (a) paragraph 406(2)(a) (requirements for proposed arrangements);
  - (b) section 434 (requirements for applications);
  - (c) section 531 (requirement to provide personal information).
- (5) Any requirement under the Biosecurity Act to pay a fee does not apply in relation to the application.
- (6) Section 410 of the Biosecurity Act applies in relation to the application as if the following paragraphs were added at the end of subsection (1):
- ; or (c) an application by a person (also the *first person*) to enter into a compliance agreement with the Commonwealth, under section 66B of the *Quarantine Act 1908* (as in force at any time before that Act was repealed), was refused; or
  - (d) a compliance agreement entered into by the Commonwealth and another person (the *first person*), under section 66B of the *Quarantine Act 1908* (as in force at any time before that Act was repealed), was cancelled.

### **Division 3—General provisions relating to applications**

#### **57 Dealing with applications for renewal or extension**

- (1) This item applies in relation to the following applications:
- (a) an application under item 48 for renewal of a transitional approved arrangement;
  - (b) an application under item 53 to extend the period during which a transitional approved arrangement remains in force.
- (2) Section 435 of the Biosecurity Act applies in relation to an application as if:
- (a) a reference to an application included a reference to an application to which this item applies; and
  - (b) a reference to the relevant Director were a reference to the Director of Biosecurity.



## **Part 6—Emergencies**

### **59 Directions to manage epidemic**

- (1) Subitem (2) applies if a direction was in force immediately before the commencement day under subsection 2B(2) of the Quarantine Act.
- (2) Despite the repeal of the Quarantine Act by this Act:
  - (a) the direction continues to have effect; and
  - (b) subsections 2B(3) and (4) of that Act continue to apply in relation to the direction.
- (3) Subitem (4) applies if a direction was in force immediately before the commencement day under an authorisation given under section 3 of the Quarantine Act.
- (4) Despite the repeal of the Quarantine Act by this Act:
  - (a) the direction continues to have effect; and
  - (b) subsections 3(9) and (10) of that Act continue to apply in relation to the direction.

### **60 Directions to deal with emergency**

- (1) This item applies if a direction was in force immediately before the commencement day under subsection 12A(1) of the Quarantine Act.
- (2) Despite the repeal of the Quarantine Act by this Act:
  - (a) the direction continues in force; and
  - (b) subsection 12A(2) of that Act continues to apply in relation to the direction.

## Part 7—Compliance and enforcement

### 61 Investigation of offences etc. against Quarantine Act

- (1) Parts 1, 2, 3, 4 and 5, and Divisions 4 and 6 of Part 10, of Chapter 9 (and any related provisions) of the Biosecurity Act apply, with the modifications set out in subitems (2) and (3):
- (a) for the purpose of determining:
    - (i) whether the Quarantine Act has been, or is being, complied with; or
    - (ii) whether information provided for the purposes of the Quarantine Act is correct; or
  - (b) if a biosecurity enforcement officer has reasonable grounds for suspecting that there may be on any premises:
    - (i) a thing with respect to which an offence against the Quarantine Act has been committed or is suspected, on reasonable grounds, to have been committed; or
    - (ii) a thing that there are reasonable grounds for suspecting will afford evidence as to the commission of an offence against the Quarantine Act; or
    - (iii) a thing that there are reasonable grounds for suspecting is intended to be used for the purpose of committing an offence against the Quarantine Act.
- (2) The provisions of the Biosecurity Act mentioned in subitem (1) apply under that subitem as if:
- (a) in those provisions, except the ones mentioned in paragraph (b), the expression “this Act” included the Quarantine Act; and
  - (b) in item 5 of the tables in each of sections 489 and 490, and in paragraph 498(1)(b), subsection 498(3) and sections 532 and 533, the expression “this Act” meant:
    - (i) Parts 1, 2, 3, 4 and 5 of Chapter 9 of the Biosecurity Act, as those Parts apply because of this item; and
    - (ii) Parts 2 and 3 of the *Regulatory Powers (Standard Provisions) Act 2014*, as they apply because of that Chapter; and

- (c) the following premises were relevant premises for the purposes of Division 2 of Part 5 of Chapter 9 of the Biosecurity Act:
  - (i) premises where goods were treated or otherwise dealt with in accordance with an approval under section 46A of the Quarantine Act or a compliance agreement;
  - (ii) a landing place or port that was a first port of entry under the Quarantine Act; and
- (d) paragraphs 511(1)(c) and (3)(b) and (c) were omitted.

Note: Applying the provisions of the Biosecurity Act mentioned in subitem (1) as described in subitem (2) also applies Parts 2 and 3 of the *Regulatory Powers (Standard Provisions) Act 2014* in relation to the Quarantine Act.

- (3) A reference in Chapter 9 of the Biosecurity Act, as applying under this item, to that Chapter, or a provision of that Chapter, is to be read as a reference to that Chapter, or that provision, as it applies under this item.

## **62 Dealing with things seized under the Quarantine Act**

- (1) If:
  - (a) a thing had been seized under Part VIA of the Quarantine Act; and
  - (b) the thing was being retained, in accordance with section 66AS of the Quarantine Act, immediately before the commencement day;then sections 66, 67 and 68 of the *Regulatory Powers (Standard Provisions) Act 2014* apply in relation to the thing as if it had been seized under Part 3 of that Act as it applies in relation to the Quarantine Act because of this Part.
- (2) An order authorising a person to keep a thing, that was in force under subsection 66AT(2) of the Quarantine Act immediately before the commencement day, has effect, on and after that day, as if it were an order made under subsection 67(4) of the *Regulatory Powers (Standard Provisions) Act 2014* as it applies in relation to the Quarantine Act because of this Part.

## Part 8—Governance and officials

### 63 Quarantine officers (animals) and quarantine officers (plants)

- (1) This item applies in relation to a person if:
  - (a) the person was appointed to be a quarantine officer (animals), or a quarantine officer (plants), or both, under subsection 9AA(3) of the Quarantine Act; and
  - (b) the appointment was in force immediately before the commencement day.
- (2) The person is taken, at the beginning of the commencement day, to have been duly authorised to be a biosecurity officer by the Director of Biosecurity under subsection 545(1) of the Biosecurity Act.

### 64 Instruments continued by this Act that confer functions or powers on certain persons

- (1) This item applies in relation to an instrument (however described) under the Quarantine Act that continues to have effect because of this Act.
- (2) A reference in the instrument that:
  - (a) is to a person mentioned in column 1 of an item of the following table; and
  - (b) provides for the person to have a function or power; has effect, in relation to the performance of the function, or the exercise of the power, on or after the commencement day, as if it were a reference to a person mentioned in column 2 of the item.

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#### References in instruments to certain persons

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<b>Column 1</b>	<b>Column 2</b>
<b>Person mentioned in instrument</b>	<b>Person who has the function or power on and after commencement day</b>
1 The Minister (however described) administering the Quarantine Act	The Agriculture Minister
2 The Secretary (however described) of the Department (however described)	The Director of Biosecurity

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**References in instruments to certain persons**

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<b>Column 1</b>	<b>Column 2</b>
<b>Person mentioned in instrument</b>	<b>Person who has the function or power on and after commencement day</b>
administered by the Minister mentioned in item 1 of this column	
3 A Director of Quarantine (however described)	The Director of Biosecurity
4 A quarantine officer (however described)	A biosecurity officer

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- (3) If a person mentioned in column 1 of an item of the table in subitem (2) had, under section 10, 10A or 10B of the Quarantine Act, delegated the power that the instrument provided for him or her to have to a person, subitem (2) has effect as if column 2 of the item included a reference to that person for so long as that person is a biosecurity official.

**65 Powers that may be exercised on board a conveyance**

- (1) This item applies if:
- (a) immediately before the commencement day, a person who was a quarantine officer was on board a conveyance as permitted by paragraph 71(1)(a) of the Quarantine Act; and
  - (b) the conveyance is taken under item 32 to have become subject to biosecurity control at the beginning of the commencement day.
- (2) If the person becomes a biosecurity officer by force of subitem 63(2), the person may remain on the conveyance for the purpose of performing functions or duties, or exercising powers, under the Biosecurity Act.
- (3) If:
- (a) the person had given the master of the conveyance a direction under paragraph 71(1)(b) of the Quarantine Act; and
  - (b) the direction was in force immediately before the commencement day;
- then the direction has effect, on and after the commencement day, as if it were a direction given to the person in charge of the conveyance under subsection 556(2) of the Biosecurity Act.
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## **66 Directions to assist person performing functions etc.**

(1) If:

- (a) a person had been given a direction under subsection 74DA(1) of the Quarantine Act to provide help in relation to a conveyance or in relation to a person or thing on a conveyance; and
- (b) the direction was in force immediately before the commencement day; and
- (c) the conveyance is taken under item 32 to have become subject to biosecurity control at the beginning of the commencement day;

then the direction has effect, on and after the commencement day, as if it were a direction given by a biosecurity official or a human biosecurity official to the person under subsection 552(2) of the Biosecurity Act to provide reasonable assistance to the official, or to any other person who is performing functions or duties or exercising powers under that Act, in relation to the conveyance or in relation to the person or thing on the conveyance (as the case requires).

(2) If:

- (a) a person had been requested under subsection 74E(1) of the Quarantine Act to provide assistance in relation to imported goods; and
- (b) the request was in force immediately before the commencement day; and
- (c) the goods are subject to biosecurity control because of item 3;

then the request has effect, on and after the commencement day, as if it were a direction given by a biosecurity official or a human biosecurity official to the person under subsection 552(1) of the Biosecurity Act to provide reasonable assistance to the official, or to any other person who is performing functions or duties or exercising powers under that Act, in relation to the goods.

## **67 Delegation and subdelegation of Director of Biosecurity's functions and powers under this Act etc.**

(1) Section 542 of the Biosecurity Act applies in relation to the Director of Biosecurity's functions and powers under this Act and the Quarantine

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Act to the extent that it continues to apply because of this Act in the same way as that section applies in relation to the Director's powers and functions under the Biosecurity Act.

- (2) However, subitem (1) and section 542 of the Biosecurity Act do not permit the subdelegation to a biosecurity officer or a biosecurity enforcement officer of power under subsection 46A(11) of the Quarantine Act as it continues to apply because of this Schedule.

## **68 Functions and powers of biosecurity officers and biosecurity enforcement officers**

- (1) Subsections 550(3), 551(1) and (3), 552(1) and (2), 553(1) and (2), 554(1) and (2) and 556(1) of the Biosecurity Act apply as if the expression "this Act" in those subsections included:
- (a) the *Biosecurity (Consequential Amendments and Transitional Provisions) Act 2015*; and
  - (b) the *Quarantine Act 1908* to the extent that it continues to apply because of the *Biosecurity (Consequential Amendments and Transitional Provisions) Act 2015*; and
  - (c) the *Biosecurity Act 2015* as it applies because of the *Biosecurity (Consequential Amendments and Transitional Provisions) Act 2015*.
- (2) Subsection 555(3) of the Biosecurity Act applies as if it included the following paragraphs:
- ; or (c) under the *Biosecurity (Consequential Amendments and Transitional Provisions) Act 2015*; or
  - (d) under the *Quarantine Act 1908* to the extent that it continues to apply because of the *Biosecurity (Consequential Amendments and Transitional Provisions) Act 2015*; or
  - (e) under this Act as it applies because of the *Biosecurity (Consequential Amendments and Transitional Provisions) Act 2015*.

**69 Delegation of Agriculture Minister's functions and powers under this Act etc.**

Section 643 of the Biosecurity Act applies in relation to the Agriculture Minister's functions and powers under this Act and the Quarantine Act to the extent that it continues to apply because of this Act in the same way as that section applies in relation to the Agriculture Minister's powers and functions under the Biosecurity Act.

## **Part 9—Miscellaneous**

### **Division 1—Review of decisions**

#### **70 Review of decisions made under continued provisions of the Quarantine Act**

Part 1 of Chapter 11 of the Biosecurity Act (about review of decisions) applies as if decisions for which the following conditions are met were reviewable decisions under that Act:

- (a) the decisions are made after the commencement day under provisions of the Quarantine Act that continue to apply because of this Act;
- (b) the decisions are prescribed as reviewable decisions by the regulations;
- (c) the regulations specify the persons who are the relevant persons for the purposes of the application of the Biosecurity Act under this item in relation to the decisions.

### **Division 2—Cost recovery**

#### **71 Sustenance for animals in quarantine**

(1) If:

- (a) the owner of an animal had agreed with the Commonwealth, under subsection 63A(1) of the Quarantine Act, to provide sustenance for the animal during all or part of a period during which the animal was held, or was to be held, in a quarantine station; and
- (b) the agreement was in force immediately before the commencement day; and
- (c) the animal is subject to biosecurity control because of item 3;

then the agreement has effect, on and after the commencement day, as if it were an agreement between the Commonwealth and the owner of the animal under subsection 612(2) of the Biosecurity Act.

(2) If:

- (a) the owner of an animal had been given a direction, under subsection 63A(2) of the Quarantine Act, to provide

sustenance for an animal during all or part of a period during which the animal was held, or was to be held, in a quarantine station; and

(b) the direction was in force immediately before the commencement day; and

(c) the animal is subject to biosecurity control because of item 3; then the direction has effect, on and after the commencement day, as if it were a direction given to the owner of the animal under subsection 612(4) of the Biosecurity Act.

## **72 Recovery of amounts by agent of master or owner of vessel**

Despite the repeal of the Quarantine Act by this Act, subsections 63AA(2) and (3) of that Act continue to apply in relation to the liability of an agent of the master or owner of a vessel to make a payment in respect of either or both of the following to the Commonwealth on or after the commencement day, and in relation to such a payment made by such an agent on or after that day:

(a) expenses connected with the performance of a service referred to in paragraph 59A(1)(a), (b) or (c) of the Quarantine Act;

(b) remuneration to be paid to a medical officer appointed by the Minister under subsection 63(1) of that Act.

## **73 Quarantine expenses in relation to goods that were subject to quarantine**

Despite the repeal of the Quarantine Act by this Act, subsections 64(1AC) and (1AD) of that Act continue to apply in relation to:

(a) the liability of an agent of an importer or owner of goods to make a payment to the Commonwealth, on or after the commencement day, in respect of expenses connected with the performance of a service referred to in paragraph 64(1)(a), (b), (c) or (d) of the Quarantine Act; and

(b) such a payment made by such an agent on or after that day.

#### **74 Sale of animals, plants or other goods to recover expenses**

- (1) This item applies in relation to expenses that were payable in respect of a thing under section 64 of the Quarantine Act.
  - (2) If the Director of Animal and Plant Quarantine had not given the owner of the thing a notice under subsection 66A(2) of that Act before the commencement day, then the Director of Biosecurity must, as soon as practicable after the commencement day, give the owner of the thing a notice advising the owner of the matters referred to in subsection 66A(2) of that Act.
  - (3) The Director of Biosecurity may sell the thing, and give full and effective title to the thing free of all encumbrances and interests, if either:
    - (a) both of the following apply:
      - (i) the owner of the thing had been given a notice under subsection 66A(2) of the Quarantine Act, or is given a notice under subitem (2), in relation to the thing;
      - (ii) at the end of 30 days after the notice was given, expenses under section 64 of the Quarantine Act are payable in respect of the thing; or
    - (b) all of the following apply:
      - (i) despite making reasonable efforts, the Director of Animal and Plant Quarantine could not give a notice under subsection 66A(2) of the Quarantine Act, and the Director of Biosecurity could not give a notice under subitem (2), to the owner of the thing;
      - (ii) the Director of Biosecurity has certified in writing to that effect;
      - (iii) at the end of 30 days after the Director of Biosecurity first attempted to give the notice, expenses under section 64 of the Quarantine Act are payable in respect of the thing.
  - (4) For the purpose of effecting a sale of the thing, the Director of Biosecurity may, on behalf of the Commonwealth:
    - (a) take possession of the thing; and
    - (b) make and execute all necessary instruments and documents.
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- (5) The proceeds of sale of the thing are to be applied against:
- (a) the expenses of the sale; and
  - (b) the expenses payable under section 64 of the Quarantine Act in respect of the thing;
- and any remaining amount is to be paid to the owner of the thing.
- (6) However, any remaining amount is forfeited to the Commonwealth at the end of 30 days after the sale if the Director of Biosecurity:
- (a) has not been able to locate the owner of the thing, despite making reasonable efforts; and
  - (b) has certified to that effect in writing.
- (7) Nothing in this item affects the right of the Commonwealth to recover expenses by other means.

## **75 Fees and deposits**

### *Fees*

- (1) The Biosecurity Act applies as if:
- (a) the following were cost-recovery charges:
    - (i) fees required by a determination made for the purposes of subsection 86E(1) of the Quarantine Act to be paid;
    - (ii) late payment fees required by a determination made for the purposes of subsection 86E(2B) of the Quarantine Act to be paid;
    - (iii) late payment fees prescribed by a regulation for the purposes of subsection 13(1) of the *Quarantine Charges (Collection) Act 2014*; and
  - (b) regulations for the purposes of the Biosecurity Act prescribed that the time that a fee described in subparagraph (a)(i) is due and payable is the end of the payment day worked out for the fee under section 86E of the Quarantine Act (whether the payment day is before, on or after the commencement day); and
  - (c) regulations for the purposes of the Biosecurity Act prescribed that the time that a late payment fee described in subparagraph (a)(ii) or (iii) was due and payable was the beginning of the commencement day; and

- (d) the person liable to pay an amount treated by subparagraph (a)(i) or (ii) as a cost-recovery charge were the person specified by a determination made for the purposes of subsection 86E(2) of the Quarantine Act as the person by whom the amount was payable; and
- (e) the person liable to pay an amount treated by subparagraph (a)(iii) as a cost-recovery charge were the person prescribed by a regulation made for the purposes of subsection 13(3) of the *Quarantine Charges (Collection) Act 2014*.

Note: Divisions 4 and 5 of Part 3 of Chapter 11 of the Biosecurity Act set out rules for recovery of cost-recovery charges, and allow regulations to provide for a late payment fee for a cost-recovery charge that is not paid by the time prescribed by the regulations as the time the charge is due and payable.

### *Deposits*

- (2) The Agriculture Minister must refund a booking fee, or deposit, (the ***old fee or deposit***) that was paid as required by a determination made for the purposes of subsection 86E(2E) of the Quarantine Act, to the extent that:
  - (a) the old fee or deposit was not refunded under subsection 86E(2H) of the Quarantine Act, or forfeited or returned under a determination made for the purposes of subsection 86E(2F) of that Act, before the commencement day; and
  - (b) regulations made for the purposes of paragraph 592(4)(a) of the Biosecurity Act do not provide for the reduction of a deposit relating to a fee-bearing activity on account of the old fee or deposit.

## **Division 3—Miscellaneous**

### **76 Hindering or preventing compliance**

Despite the repeal of the Quarantine Act by this Act, subsection 67(6) of that Act continues to apply.

## **77 Compensation**

### *Destroyed goods and premises*

- (1) Despite the repeal of the Quarantine Act by this Act, section 69A of that Act (as modified by subitem (2)), and any approvals given under that section, continue to apply in relation to any goods, or any premises comprising buildings or other structures, that are destroyed under or in accordance with the Quarantine Act (whether the destruction occurred before, on or after the commencement day).
- (2) Section 69A of the Quarantine Act applies under subitem (1) as if a reference to the Minister were a reference to the Agriculture Minister, within the meaning of the Biosecurity Act.

### *Acquisition of property*

- (3) Despite the repeal of the Quarantine Act by this Act, section 86F of that Act continues to apply in relation to any acquisition of property from a person resulting from the operation of the Quarantine Act (whether the acquisition occurred before, on or after the commencement day).

## **78 Protection from civil proceedings**

Section 644 of the Biosecurity Act applies in relation to functions and powers conferred by this Act, the Quarantine Act to the extent that it continues to apply because of this Act, the Biosecurity Act to the extent that it applies because of this Act or an instrument under this Act or either of those Acts, in the same way as that section applies in relation to powers and functions conferred by the Biosecurity Act.

## **79 Summary proceedings relating to the Quarantine Act instituted on or after the commencement day**

Section 86A of the Quarantine Act continues to apply in relation to proceedings relating to the Quarantine Act (as it applied of its own force or to the extent that it continues to apply because of this Act) that are instituted on or after the commencement day.

## **80 Jurisdiction in matters relating to the Quarantine Act**

Section 86B of the Quarantine Act continues to apply in relation to matters arising under that Act (as it applied of its own force or to the extent that it continues to apply because of this Act).

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### **81 Analysts appointed under the Quarantine Act**

If:

- (a) a person had been appointed to be an analyst for the purposes of the Quarantine Act under subsection 86DA(1) of that Act; and
- (b) the appointment was in force immediately before the commencement day;

then the person is taken, at the beginning of the commencement day, to have been duly appointed to be an analyst by the Director of Biosecurity under subsection 637(1) of the Biosecurity Act.

### **82 Certificate given by analyst before commencement day**

- (1) This item applies if:
  - (a) an analyst had given a certificate under subsection 86DA(2) of the Quarantine Act before the commencement day in respect of a substance or thing in relation to which an offence against that Act was or is alleged to have been committed; and
  - (b) either:
    - (i) proceedings for the offence had been instituted, but had not been finally determined, before that day; or
    - (ii) proceedings for the offence had not been instituted before that day.
- (2) Despite the repeal of the Quarantine Act by this Act, subsections 86DA(2) to (6) of that Act continue to apply in relation to the certificate and proceedings for the offence.

### **83 Certificate given by analyst on or after commencement day relating to alleged offence against Quarantine Act**

- (1) This item applies if an analyst gives a certificate on or after the commencement day in respect of a matter or thing in relation to which an offence against the Quarantine Act (as it applied of its own force or as it continues to apply because of this Act) is or was alleged to have been committed.
- (2) Despite the repeal of the Quarantine Act by this Act, subsections 86DA(2) to (6) of that Act (as modified by subitem (3))

continue to apply on and after the commencement day for the purposes of any proceeding in relation to the offence.

- (3) Subsections 86DA(2) to (6) of the Quarantine Act apply under subitem (2) as if:
- (a) a reference to an analyst were a reference to an analyst appointed under subsection 637(1) of the *Biosecurity Act*; and
  - (b) subsection (2) were amended by omitting “a form approved by a Director of Quarantine” and substituting “a form approved by the Director of Biosecurity (within the meaning of the *Biosecurity Act 2015*)”; and
  - (c) paragraph (2)(a) were amended by omitting “subsection (1)” and substituting “subsection 637(1) of the *Biosecurity Act 2015*”.

## **Part 10—Regulations**

### **84 Regulations may deal with transitional and other matters**

- (1) The Governor-General may make regulations prescribing matters that:
- (a) are required or permitted by this Schedule to be prescribed by the regulations; or
  - (b) are of a transitional nature (including prescribing any saving or application provisions) relating to:
    - (i) the amendments or repeals made by this Act; or
    - (ii) the enactment of this Act or the *Biosecurity Act 2015*.
- (2) Without limiting subitem (1), regulations made for the purpose of that subitem may provide that provisions of the *Biosecurity Act 2015*, or this Schedule, are taken to be modified as prescribed by the regulations. Those provisions then have effect as if they were so modified.

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*[Minister's second reading speech made in—  
House of Representatives on 27 November 2014  
Senate on 10 February 2015]*

(247/14)

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