



Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 1) 2004

No. 54, 2004

**An Act to amend the law relating to agriculture,
fisheries and forestry, and for related purposes**

Note: An electronic version of this Act is available in SCALEplus
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)

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An Act to amend the law relating to agriculture, fisheries and forestry, and for related purposes

[Assented to 27 April 2004]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Agriculture, Fisheries and Forestry
Legislation Amendment Act (No. 1) 2004*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day after the day on which this Act receives the Royal Assent	28 April 2004
2. Schedule 1, Part 1, items 1 to 113	A single day to be fixed by Proclamation, subject to subsection (3)	27 October 2004
3. Schedule 1, Part 1, items 114, 115 and 116	The later of: (a) the commencement of the provisions covered by item 2 of this table; and (b) the start of the day on which Part 2 of Schedule 1 to the <i>Quarantine Amendment Act 2002</i> commences	27 October 2004 (paragraph (a) applies)
4. Schedule 1, Part 1, items 117 to 143	A single day to be fixed by Proclamation, subject to subsection (3)	27 October 2004
5. Schedule 1, Part 2	The day after the day on which this Act receives the Royal Assent.	28 April 2004
5A. Schedule 1, item 156	The day after the day on which this Act receives the Royal Assent. However, the provision(s) do not commence at all if item 2 of Schedule 2 to the <i>Australian Federal Police and Other Legislation Amendment Act 2003</i> commences before, or on the same day as, the day on which this Act receives the Royal Assent.	28 April 2004

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
5B. Schedule 1, item 157	The later of: (a) the time immediately after the time that the provision(s) covered by table item 5A commence; and (b) the commencement of item 2 of Schedule 2 to the <i>Australian Federal Police and Other Legislation Amendment Act 2004</i> .	1 July 2004 (paragraph (b) applies)
5C. Schedule 1, items 159 to 170	The day after the day on which this Act receives the Royal Assent.	28 April 2004
6. Schedule 2	The day after the day on which this Act receives the Royal Assent	28 April 2004
7. Schedule 3	The day on which this Act receives the Royal Assent	27 April 2004
8. Schedule 4	Immediately after the commencement of section 2 of the <i>Quarantine Amendment (Health) Act 2003</i> .	26 September 2003

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.
- (3) If a provision covered by item 2 or 4 of the table does not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.

3 Schedule(s)

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

Schedule 1—Amendment of the Quarantine Act 1908

Part 1—Extension of the Quarantine Act to Christmas Island

1 Subsection 5(1) (definition of *Adjacent area*)

Omit “of the Territory of Ashmore and Cartier Islands or of the Territory of the Cocos Islands”, substitute “, of the Territory of Ashmore and Cartier Islands, of the Territory of Cocos (Keeling) Islands or of the Territory of Christmas Island”.

2 Subsection 5(1) (definition of *Australia*)

Repeal the definition, substitute:

Australia, when used in a geographical sense, includes the Territory of Ashmore and Cartier Islands.

3 Subsection 5(1)

Insert:

Christmas Island means the Territory of Christmas Island.

4 Subsection 5(1)

Insert:

Christmas Island vessel means a vessel which does not voyage or ply to or from any place outside Christmas Island.

5 Subsection 5(1) (definition of *Commonwealth*)

Repeal the definition, substitute:

Commonwealth, when used in a geographical sense, includes the Territory of Ashmore and Cartier Islands.

6 Subsection 5(1)

Insert:

first Christmas Island port of entry, in relation to a vessel, means a first port of entry in Christmas Island for that vessel.

7 Subsection 5(1) (definition of *Imported*)

Omit “or into the Cocos Islands”, substitute “, into the Cocos Islands or into Christmas Island”.

8 Subsection 5(1) (definition of *overseas vessel*)

Repeal the definition, substitute:

overseas vessel means a vessel other than:

- (a) an Australian vessel; or
- (b) a Cocos Islands vessel; or
- (c) a Christmas Island vessel;

and includes a vessel:

- (d) that is on a voyage from Australia to the Cocos Islands or from the Cocos Islands to Australia; or
- (e) that is on a voyage from Australia to Christmas Island or from Christmas Island to Australia; or
- (f) that is on a voyage from the Cocos Islands to Christmas Island or from Christmas Island to the Cocos Islands.

9 Transitional provision relating to overseas vessels

A reference to an overseas vessel in any regulation, Proclamation, order, determination, declaration or other document that was in force under the *Quarantine Act 1908* immediately before the date of commencement of item 8 of this Schedule is taken, on and after that date, to be a reference to an overseas vessel within the meaning of that Act as amended by that item.

10 Subsection 5(1) (after subparagraph (a)(ii) of the definition of *Pratique*)

Insert:

- or (iii) in the case of a vessel in, or about to arrive in, Christmas Island—places outside Christmas Island;

11 Subsection 5(1) (definition of *Quarantine area*)

Omit “the Commonwealth or the Cocos Islands”, substitute “Australia, the Cocos Islands or Christmas Island”.

12 Subsection 5(1) (definition of *Special Quarantine Zone*)

Repeal the definition, substitute:

Special Quarantine Zone means:

- (a) in respect of Australia—an area declared by the Minister under section 5A to be a Special Quarantine Zone in respect of Australia; and
- (b) in respect of Christmas Island—an area declared by the Minister under section 5A to be a Special Quarantine Zone in respect of Christmas Island; and
- (c) in respect of the Cocos Islands—an area declared by the Minister under section 5A to be a Special Quarantine Zone in respect of the Cocos Islands.

13 Section 5A

Repeal the section, substitute:

5A Special Quarantine Zones

The Minister may, by notice published in the *Gazette*, declare an area described in the notice:

- (a) to be a Special Quarantine Zone in respect of Australia; or
- (b) to be a Special Quarantine Zone in respect of the Cocos Islands; or
- (c) to be a Special Quarantine Zone in respect of Christmas Island;

for the purposes of this Act.

14 Saving of declarations

A declaration made under section 5A of the *Quarantine Act 1908* that was in force immediately before the date of commencement of item 13 of this Schedule continues in force, on and after that date, as if:

- (a) the declaration had been made under section 5A of that Act as amended by that item; and
- (b) that declaration had provided that the area described was a Special Quarantine Zone in respect of Australia.

15 Subparagraph 5D(a)(i)

Omit “or the Cocos Islands”, substitute “, the Cocos Islands or Christmas Island”.

16 At the end of subsection 6(1)

Add “and to Christmas Island”.

17 At the end of section 6 (before the note)

Add:

- (3) Any references in provisions of this Act to Christmas Island do not imply that references to Australia or to the Commonwealth in other provisions of this Act do not also include references to Christmas Island.

Note: The heading to section 6 is replaced by the heading “**Extension of Act to Cocos Islands and Christmas Island**”.

18 Section 6 (note)

Repeal the note, substitute:

Note: Under paragraph 17(a) of the *Acts Interpretation Act 1901*, in any Act *Australia* and *Commonwealth* include the Cocos Islands and Christmas Island unless the contrary intention appears.

19 Transitional provision—continuance of old quarantine law

- (1) If a person, vessel, animal, plant or other goods arrive at Christmas Island before the date of commencement of the amendment of subsection 6(1) of the *Quarantine Act 1908* by item 16 of this Schedule, then, despite that amendment, the quarantine law in force before that date continues to apply in relation to that person, vessel, animal, plant or other goods for 2 months commencing on that date as if that amendment had not been made.
- (2) If, before the end of the 2 months referred to in subitem (1), the Minister is satisfied that it is necessary that the quarantine law in force before the amendment of subsection 6(1) of the *Quarantine Act 1908* by item 16 of this Schedule should continue to have effect as provided in that subitem for a specified period after the end of that 2 months:
- (a) the Minister may, by notice published in the *Gazette*, make a declaration to that effect; and

(b) subitem (1) has effect as if there were substituted for the reference to 2 months a reference to 2 months as extended of that specified period.

- (3) For the purposes of this item, the reference to the quarantine law in force before the date of commencement of the amendment of subsection 6(1) of the *Quarantine Act 1908* by item 16 of this Schedule is a reference to the Quarantine and Prevention of Disease Ordinance of the Colony of Singapore in its application to Christmas Island.

20 Section 6AA

Repeal the section.

21 At the end of paragraphs 13(1)(a) and (aaa)

Add “or”.

22 After paragraph 13(1)(aaa)

Insert:

(aab) declare any ports in Christmas Island to be first Christmas Island ports of entry for overseas vessels; or

23 Paragraph 13(1)(aa)

Repeal the paragraph, substitute:

(aa) declare any place or area in Australia, the Cocos Islands or Christmas Island to be a landing place for aircraft; or

24 Saving of Proclamations

A Proclamation made under paragraph 13(1)(aa) of the *Quarantine Act 1908* that was in force immediately before the commencement of item 23 of this Schedule continues in force, on and after that date, as if it had been made under paragraph 13(1)(aa) of that Act as amended by that item.

25 Paragraph 13(1)(b)

Omit “or the Cocos Islands”, substitute “, the Cocos Islands or Christmas Island”.

26 At the end of paragraphs 13(1)(b), (c) and (ca)

Add “or”.

27 Paragraph 13(1)(d)

Omit “or prohibit the introduction or importation into the Cocos Islands,”, substitute “into the Cocos Islands, or into Christmas Island,”.

28 At the end of paragraph 13(1)(d)

Add “or”.

29 Paragraph 13(1)(e)

Omit “or prohibit the importation into the Cocos Islands, of any articles or things”, substitute “into the Cocos Islands, or into Christmas Island, of any articles or things”.

30 At the end of paragraph 13(1)(e)

Add “or”.

31 Paragraph 13(1)(f)

Omit “or prohibit the importation into the Cocos Islands, of any animals or plants,”, substitute “into the Cocos Islands, or into Christmas Island, of any animals, plants or other goods,”.

32 At the end of paragraph 13(1)(f)

Add “or”.

33 Saving of Proclamations

A Proclamation made under paragraph (13)(1)(f) of the *Quarantine Act 1908* that was in force immediately before the date of commencement of item 31 of this Schedule continues in force, on and after that date, as if it had been made under paragraph 13(1)(f) of that Act as amended by that item.

34 Paragraph 13(1)(fa)

Repeal the paragraph, substitute:

(fa) prohibit the bringing into any port or other place in Australia, the Cocos Islands or into Christmas Island of any animals, plants or other goods, or any parts of animals of plants; or

35 Saving of Proclamations

A Proclamation made under paragraph 13(1)(fa) of the *Quarantine Act 1908* that was in force immediately before the date of commencement of item 34 of this Schedule continues in force, on and after that date, as if it had been made under paragraph 13(1)(fa) of that Act as amended by that item.

36 Paragraphs 13(1)(g) and (ga)

Repeal the paragraphs, substitute:

- (g) prohibit the removal of any animals, plants or other goods, or any parts of animals or plants:
 - (i) from any part of the Commonwealth to any other part of the Commonwealth; or
 - (ii) from any part of the Cocos Islands to any other part of the Cocos Islands; or
 - (iii) from any part of Christmas Island to any other part of Christmas Island; or
- (ga) prohibit the removal of any animals, plants or other goods, or any parts of animals or plants:
 - (i) from Australia or a part of Australia to the Cocos Islands or a part of the Cocos Islands; or
 - (ii) from the Cocos Islands or a part of the Cocos Islands to Australia or a part of Australia; or

37 Saving of Proclamations

A Proclamation made under paragraph 13(1)(g) or (ga) of the *Quarantine Act 1908* that was in force immediately before the date of commencement of item 36 of this Schedule continues in force, on and after that date, as if it had been made under paragraph 13(1)(g) or (ga) of that Act as amended by that item.

38 After paragraph 13(1)(ga)

Insert:

- (gb) prohibit the removal of any animals, plants or other goods or any parts of animals or plants:
 - (i) from Australia or a part of Australia to Christmas Island or a part of Christmas Island; or

- (ii) from Christmas Island or a part of Christmas Island to Australia or a part of Australia; or
- (gc) prohibit the removal of any animals, plants or other goods, or parts of animals or plants:
 - (i) from the Cocos Islands or a part of the Cocos Islands to Christmas Island or a part of Christmas Island; or
 - (ii) from Christmas Island or a part of Christmas Island to the Cocos Islands or a part of the Cocos Islands; or

39 Paragraph 13(1)(h)

Repeal the paragraph, substitute:

- (h) declare any part of the Commonwealth, of the Cocos Islands, or of Christmas Island in which any disease or pest exists, or is suspected to exist, to be a quarantine area; or

40 Saving of Proclamations

A Proclamation made under paragraph 13(1)(h) of the *Quarantine Act 1908* that was in force immediately before the date of commencement of item 39 of this Schedule continues in force, on and after that date, as if it had been made under paragraph 13(1)(h) of that Act as amended by that item.

41 Paragraph 13(1)(i)

Omit “or of the Cocos Islands”, substitute “, of the Cocos Islands or of Christmas Island.”

42 After subsection 13(1B)

Insert:

- (1C) The power to declare first Christmas Island ports of entry extends to authorize the declaration of a port to be a first Christmas Island port of entry for all overseas vessels, or for overseas vessels from any particular place, or for any class of overseas vessels.

43 Paragraphs 13(2A)(a), (b) and (c)

Omit “or the Cocos Islands” (wherever occurring), substitute “, the Cocos Islands or Christmas Island”.

44 After subparagraph 13(2A)(d)(iii)

Insert:

- or (iv) from a part of Christmas Island to another part of Christmas Island; or
- (v) from Australia or a part of Australia to Christmas Island or a part of Christmas Island or from Christmas Island or a part of Christmas Island to Australia or a part of Australia; or
- (vi) from Christmas Island or a part of Christmas Island to the Cocos Islands or a part of the Cocos Islands or from the Cocos Islands or a part of the Cocos Islands to Christmas Island or a part of Christmas Island;

45 Subsection 13(3)

Omit “(h) and (i), so far as they relate to vessels, people, animals, plants or other goods, or any disease or pest, are exercisable in relation to the Commonwealth or the Cocos Islands”, substitute “(gb), (gc), (h) and (i), so far as they relate to vessels, people, animals, plants or other goods, or any disease or pest, are exercisable in relation to the Commonwealth, the Cocos Islands or Christmas Island”.

46 After subparagraph 13(6)(b)(iv)

Insert:

- or (v) from a part of Christmas Island to another part of Christmas Island; or
- (vi) from Australia or a part of Australia to Christmas Island or a part of Christmas Island; or
- (vii) from Christmas Island or a part of Christmas Island to Australia or a part of Australia; or
- (viii) from Christmas Island or a part of Christmas Island to the Cocos Islands or a part of the Cocos Islands; or
- (ix) from the Cocos Islands or a part of the Cocos Islands to Christmas Island or a part of Christmas Island;

47 At the end of paragraph 14(a)

Add “and”.

48 At the end of subparagraphs 14(b)(i), (ia), (ii), (iii) and (iv)

Add “or”.

49 After subparagraph 14(b)(v)

Insert:

- (va) between ports in Christmas Island; or
- (vb) between Australia and Christmas Island; or
- (vc) between the Cocos Islands and Christmas Island; or

50 Subsection 16(AC)(1)

Omit “or the Cocos Islands”, substitute “, the Cocos Islands or Christmas Island”.

51 Paragraph 16AC(2)(a)

Omit “or the Cocos Islands”, substitute “, the Cocos Islands or Christmas Island”.

52 Subsections 16AD(1) and 16AF(1)

Omit “or the Cocos Islands” (wherever occurring), substitute “, the Cocos Islands or Christmas Island”.

53 Paragraph 16AG(f)

Omit “or the Cocos Islands” (wherever occurring), substitute “, the Cocos Islands or Christmas Island”.

54 Paragraph 17(1)(b)

After “Cocos Islands vessel”, insert “, a Christmas Island vessel”.

55 After subparagraph 18(1)(a)(ii)

Insert:

- or (iii) in the case of a vessel that has arrived in Christmas Island from a place outside Christmas Island—its arrival in Christmas Island;

56 Paragraph 18(1)(aa)

Omit “or a Cocos Islands vessel”, substitute “a Cocos Islands vessel, or a Christmas Island vessel”.

57 Paragraph 18(1)(e)

Omit “or the Cocos Islands”, substitute “, the Cocos Islands or Christmas Island”.

58 After subparagraph 18(2)(a)(ii)

Insert:

or (iii) in the case of a vessel that has arrived in Christmas Island from a place outside Christmas Island—its arrival in Christmas Island;

59 Paragraph 18(2)(aa)

Omit “or a Cocos Islands vessel”, substitute “a Cocos Islands vessel, or a Christmas Island vessel”.

60 Subsections 19(1), (2), (3), (4), (5) and (6)

After “Australia”, insert “or Christmas Island”.

Note: The heading to section 19 is replaced by the heading “**Revival of Quarantine (Cocos Islands)**”.

61 After section 19

Insert:

19AA Revival of quarantine (Christmas Island)

- (1) If a vessel that ceased to be subject to quarantine when in, or about to arrive in, Christmas Island is about to arrive in Australia or the Cocos Islands, the vessel again becomes subject to quarantine.
- (2) If a person who ceased to be subject to quarantine when in, or about to arrive in, Christmas Island is about to arrive in Australia or the Cocos Islands, the person again becomes subject to quarantine.
- (3) If goods that ceased to be subject to quarantine when in, or about to arrive in, Christmas Island are about to arrive in Australia or the Cocos Islands, the goods again become subject to quarantine.
- (4) If a vessel that ceased to be the subject to quarantine when in, or about to arrive in, Australia or the Cocos Islands is about to arrive

in Christmas Island, the vessel again becomes subject to quarantine.

- (5) If a person who ceased to be subject to quarantine when in, or about to arrive in, Australia or the Cocos Islands is about to arrive in Christmas Island, the person again becomes subject to quarantine.
- (6) If goods that ceased to be subject to quarantine when in, or about to arrive in, Australia or the Cocos Islands are about to arrive in Christmas Island, the goods again become subject to quarantine.

62 Subsection 20(1)

Omit “arriving in Australia or the Cocos Islands”, substitute “arriving in Australia, the Cocos Islands or Christmas Island”.

63 Paragraph 20(1)(a)

Repeal the paragraph, substitute:

- (a) the master permits the vessel to enter a place in Australia, the Cocos Islands or Christmas Island other than a port declared to be a first port of entry, a first Cocos Islands port of entry or a first Christmas Island port of entry, as the case may be; and

64 Subsection 20(2)

Omit “arriving in Australia or the Cocos Islands”, substitute “arriving in Australia, the Cocos Islands or Christmas Island”.

65 Paragraph 20(2)(a)

Omit “or the Cocos Islands”, substitute “, the Cocos Islands or Christmas Island”.

66 Paragraph 20(2)(b)

Omit “or of the Cocos Islands”, substitute “, of the Cocos Islands or of Christmas Island”.

67 Paragraph 20A(a)

Omit “or the Cocos Islands”, substitute “, the Cocos Islands or Christmas Island”.

68 Subsection 20AA(1)

Omit “brought to a place in Australia or in the Cocos Islands specified in the notice, being a place other than a first port of entry, a first Cocos Islands port of entry or a landing place”, substitute:

brought to:

- (a) a place in Australia; or
- (b) a place in the Cocos Islands; or
- (c) a place in Christmas Island;

being a place other than a first port of entry, a first Cocos Island port of entry, a first Christmas Island port in entry or a landing place.

69 Subsection 20B(1)

Repeal the subsection, substitute:

Proclamation of place

- (1) If the Governor-General is of the opinion that there is danger of the introduction into Australia, the Cocos Islands or Christmas Island by aircraft of disease from any place outside Australia, the Cocos Islands or Christmas Island, as the case may be, the Governor-General may, by Proclamation, declare the place to be a place in relation to which this section applies in respect of Australia, the Cocos Islands or Christmas Island, as the case may be.

70 Saving of Proclamations

A Proclamation made under subsection of 20B(1) of the *Quarantine Act 1908* that was in force immediately before the date of commencement of item 69 of this Schedule continues in force on and after that date, as if it had been made under subsection 20B(1) of that Act as substituted by that item.

71 Subsections 20B(2), (3), (4) and (5)

Omit “or the Cocos Islands” (wherever occurring), substitute “, the Cocos Islands or Christmas Island”.

72 Subsection 20B(6)

Repeal the subsection, substitute:

Meaning of entry from place outside Australia, the Cocos Islands or Christmas Island

- (6) For the purpose of this section, and of any Proclamation under this section, a person is taken to enter Australia, the Cocos Islands or Christmas Island from a place outside Australia, the Cocos Islands or Christmas Island, as the case may be, if he or she has been in that place within 21 days before his or her arrival in Australia, the Cocos Islands or Christmas Island, as the case may be.

73 Subsection 20C(1)

Omit “or the Cocos Islands”, substitute “, the Cocos Islands or Christmas Island”

74 Subsections 20D(1), (2), (3) and (4)

Omit “the Cocos Islands” (wherever occurring), substitute “, the Cocos Islands or Christmas Island”.

75 Paragraph 21(1A)(b)

Omit “or the Cocos Islands” (wherever occurring), substitute “, the Cocos Islands or Christmas Island”.

76 Paragraph 27A(1)(a)

Omit “or the Cocos Islands”, substitute “, the Cocos Islands or Christmas Island”.

77 Subparagraphs 27A(1)(b)(i) and (ii)

Repeal the subparagraphs, substitute:

- (i) is intended to arrive at a place in Australia, the Cocos Islands or Christmas Island from a place outside Australia, the Cocos Islands and Christmas Island; or
- (ii) is intended to arrive at a place in the Cocos Islands from a place in Australia or in Christmas Island; or
- (iii) is intended to arrive at a place in Christmas Island from a place in Australia or in the Cocos Islands; or

78 Paragraphs 27A(1)(c) and (d)

Repeal the paragraphs, substitute:

- (c) a vessel (other than a overseas vessel or an aircraft), or an installation (other than an overseas installation) that is intended to arrive:
 - (i) at a place in Australia from a place in the Cocos Islands or in Christmas Island; or
 - (ii) at a place in the Cocos Islands from a place in Australia or Christmas Island; or
 - (iii) at a place in Christmas Island from a place in Australia or the Cocos Islands; or
- (d) a vessel (other than an overseas vessel, an aircraft or a prescribed vessel) that is intended to arrive:
 - (i) at a place in Australia (other than a place in a Special Quarantine Zone declared in respect of Australia or the Protected Zone) from a place in any of those zones; or
 - (ii) at a place in the Cocos Islands (other than a place in a Special Quarantine Zone declared in respect of the Cocos Islands) from a place in such a zone; or
 - (iii) at a place in Christmas Island (other than a place in a Special Quarantine Zone declared in respect of Christmas Island) from a place in such a zone.

79 At the end of subsection 27A(2)

Add:

; or (c) in respect of a vessel or installation that is intended to arrive at a place in Christmas Island—at that place.

80 Paragraph 27A(4)(b)

Omit “or the Cocos Islands”, substitute “, the Cocos Islands or Christmas Island”.

81 Paragraph 27B(1)(a)

Omit “or the Cocos islands”, substitute “, the Cocos Islands or Christmas Island”.

82 Paragraph 27B(1)(b)

Repeal the paragraph, substitute:

- (b) is intended to arrive at a place in Australia (other than a place in a Special Quarantine Zone in respect of Australia or the Protected Zone) from a place in any of those zones; or
- (c) is intended to arrive at a place in the Cocos Islands (other than a place in a Special Quarantine Zone in respect of the Cocos Islands) from a place in such a zone; or
- (d) is intended to arrive at a place in Christmas Island (other than a place in a Special Quarantine Zone in respect of Christmas Island) from a place in such a zone.

83 Paragraph 28(1)(a)

Omit “or the Cocos Islands”, substitute “, the Cocos Islands or Christmas Island”.

84 Paragraph 28(1)(b)

Repeal the paragraph, substitute:

- (b) the master of a vessel that has arrived or is expected to arrive:
 - (i) at a place in Australia (other than a place in the Protected Zone or in a Special Quarantine Zone declared in respect of Australia) from a place in any of those zones; or
 - (ii) at a place in the Cocos Islands (other than a place in a Special Quarantine Zone declared in respect of the Cocos Islands) from a place in such a zone; or
 - (iii) at a place in Christmas Island (other than a place in a Special Quarantine Zone declared in respect of Christmas Island) from a place in such a zone;

85 Paragraph 28(1)(d)

Omit “or the Cocos Islands”, substitute “, the Cocos Islands or Christmas Island”.

86 Saving of requirements

Any requirement made by a quarantine officer under subsection 28(1) of the *Quarantine Act 1908* that was in force immediately before the date of commencement of items 83, 84 and 85 of this Schedule continues in force, on and after that date, as if it had been made under subsection 28(1) of that Act as amended by those items.

87 Subsections 29A(1) and (4)

Omit “or the Cocos Islands” (wherever occurring), substitute “, the Cocos Islands or Christmas Island”.

88 Subsection 29A(5) (definition of overseas vessel)

Repeal the definition, substitute:

overseas vessel includes:

- (a) in relation to Australia:
 - (i) a vessel that travels to or from a place in Australia that is in the Protected Zone; and
 - (ii) a vessel that travels from or through a Special Quarantine Zone in respect of Australia; and
- (b) in relation to the Cocos Islands—a vessel that travels from or through a Special Quarantine Zone in relation to the Cocos Islands; and
- (c) in relation to Christmas Island—a vessel that travels from or through a Special Quarantine Zone in respect of Christmas Island.

89 Subsection 29B(1)

Omit “or the Cocos Islands”, substitute “, the Cocos Islands or Christmas Island”.

90 Subsection 29B(2)

Repeal the subsection, substitute:

Vessels or installations at a port or other place in Australia that may be subject to directions

- (2) The vessels or installations at a port or other place in Australia in respect of which directions may be given under subsection (1) are:
 - (a) an overseas vessel or an overseas installation; or
 - (b) a vessel that travels to or from a place in Australia that is in the Protected Zone; or
 - (c) a vessel that travels from or through a Special Quarantine Zone in respect of Australia; or
 - (d) another vessel or installation on which there are animals subject to quarantine.

Vessels or installations at a port or place in the Cocos Islands that may be subject to directions

- (2A) The vessels or installations at a port or place in the Cocos Islands in respect of which directions may be given under subsection (1) are:
- (a) an overseas vessel or an overseas installation; or
 - (b) a vessel that travels from or through a Special Quarantine Zone in respect of the Cocos Islands; or
 - (c) another vessel or installation on which there are animals subject to quarantine.

Vessels or installations at a port or place in Christmas Island that may be subject to directions

- (2B) The vessels or installations at a port or place in Christmas Island in respect of which directions may be given under subsection (1) are:
- (a) an overseas vessel or an overseas installation; or
 - (b) a vessel that travels from or through a Special Quarantine Zone in respect of Christmas Island; or
 - (c) another vessel or installation on which there are animals subject to quarantine.

91 Saving of directions

A direction given by a Director of Quarantine under section 29B of the *Quarantine Act 1908* that was in force immediately before the date of commencement of items 89 and 90 of this Schedule continues in force, on and after that date, as if it had been given under section 29B of that Act as amended by those items.

92 Subsection 32A(1)

Omit “or the Cocos Islands” (wherever occurring), substitute “, the Cocos Islands or Christmas Island”.

93 Paragraph 33(1A)(a)

Omit all the words after “Australia”, substitute:

, the Cocos Islands or Christmas Island other than a port declared to be a first port of entry, a first Cocos Islands port of entry or a first Christmas Island port of entry, as the case may be; and

94 Paragraphs 33(4)(aa) to (g)

Repeal the paragraphs, substitute:

- (a) all places in Australia, or in the Cocos Islands, or in Christmas Island; or
- (b) all ports in Australia, or in the Cocos Islands, or in Christmas Island, other than landing places; or
- (c) all landing places in Australia, or in the Cocos Islands, or in Christmas Island; or
- (d) all places in a part of Australia, a part of the Cocos Islands, or a part of Christmas Island, that is specified by the quarantine officer (human quarantine) granting the pratique; or
- (e) all ports in a part of Australia, a part of the Cocos Islands, or a part of Christmas Island, that is specified by the quarantine officer (human quarantine) granting the pratique, other than landing places; or
- (f) all landing places in a part of Australia, a part of the Cocos Islands, or a part of Christmas Island, that is specified by the quarantine officer (human quarantine) granting the pratique; or
- (g) a particular port, or particular ports, in Australia, in the Cocos Islands, or in Christmas Island, that are specified by the quarantine officer (human quarantine) granting the pratique; or

95 Transitional provision

A pratique granted by a quarantine officer (human quarantine) under section 33 of the *Quarantine Act 1908* that was in force immediately before the date of commencement of items 93 and 94 of this Schedule continues to have effect, according to its tenor, on and after that date, as if it had been granted under section 33 of that Act as amended by those items.

96 After subsection 35(1AA)

Insert:

- (1AB) A quarantine officer may, by order in writing, order into quarantine any goods (whether subject to quarantine or not) in Christmas

Island that, in his or her opinion, are, or are likely to be, infected with, or a source of infection with, a disease or pest.

97 Subsection 35(2)

Omit “or the Cocos Islands”, substitute “, the Cocos Islands or Christmas Island”.

98 At the end of section 39

Add:

- (3) Subsection (1) has effect, in relation to a vessel in Christmas Island, as if the reference in that subsection to the appointed quarantine station included a reference to the appointed place in Christmas Island.

99 Subsections 44A(2), (3) and (4)

Omit “or the Cocos Islands” (wherever occurring), substitute “, the Cocos Islands or Christmas Island”.

100 Paragraph 44B(1)(b)

Omit “or the Cocos Islands”, substitute “, the Cocos Islands or Christmas Island”.

101 Subsection 44B(5)

Omit “or the Cocos Islands” (wherever occurring), substitute “, the Cocos Islands or Christmas Island”.

102 After paragraph 52(2)(b)

Insert:

- or (c) imported into Christmas Island otherwise than for the purpose of performing quarantine before being imported into Australia;

103 Subparagraph 55A(2)(b)(ib)

Repeal the subparagraph, substitute:

- (ib) a vessel that travels to a place in Australia from or through a Special Quarantine Zone in respect of Australia;

(ic) a vessel that travels to a place in the Cocos Islands from or through a Special Quarantine Zone in respect of the Cocos Islands;

(id) a vessel that travels to a place in Christmas Island from or through a Special Quarantine Zone in respect of Christmas Island;

104 After subparagraph 55A(2)(b)(iv)

Insert:

(iva) a Christmas Island vessel subject to quarantine;

105 At the end of paragraphs 59(2)(a), (aa), (ab), (ac) and (b)

Insert “or”.

106 After paragraph 59(2)(b)

Insert:

(ba) between ports in Christmas Island; or

107 At the end of paragraphs 59(2)(c) and (d)

Add “or”.

108 After paragraph 59(2)(e)

Insert:

(ea) between Australia and Christmas Island; or

(eb) between the Cocos Islands and Christmas Island; or

109 Subsection 66AA(5) (subparagraphs (d)(i) and (ii) of the definition of *infected goods*)

Omit “or the Cocos Islands” (wherever occurring), substitute “, the Cocos Islands or Christmas Island”.

110 After subparagraph 66AA(5)(d)(vi)

Insert:

(vii) removed from the Cocos Islands to Christmas Island; or

(viii) removed from a part of Christmas Island to another part of Christmas Island; or

(ix) removed from Australia to Christmas Island; or

(x) removed from Christmas Island to Australia; or

(xi) removed from Christmas Island to the Cocos Islands;

111 Subsection 66AB(3)

After “in the Cocos Islands”, insert “, or in Christmas Island”.

112 Paragraph 66AB(3)(a)

After “on the Cocos Islands”, insert “or on Christmas Island, as the case may be,”.

113 Subparagraphs 66AC(2)(b)(ii) and (4)(a)(iii)

After “Cocos Islands” (wherever occurring), insert “or in Christmas Island”.

114 Paragraphs 67(1)(a) and (3)(a)

Omit “or the Cocos Islands” (wherever occurring), substitute “, the Cocos Islands or Christmas Island”.

115 Subparagraph 67(4B)(a)(iv)

Omit “and”, substitute “or”.

116 At the end of paragraph 67(4B)(a)

Add:

- (v) from a part of Christmas Island to another part of Christmas Island; or
- (vi) from Australia to Christmas Island; or
- (vii) from Christmas Island to Australia; or
- (viii) from Christmas Island to the Cocos Islands; and

117 Section 67A

Omit “or the Cocos islands”, substitute “, the Cocos Islands or Christmas Island”.

118 Paragraph 68(1)(a)

Omit “or the Cocos islands”, substitute “, the Cocos Islands or Christmas Island”.

119 At the end of paragraph 68(1)(b)

Add:

- (v) from a part of Christmas Island to another part of Christmas Island; or
- (vi) from Australia to Christmas Island; or
- (vii) from Christmas Island to Australia; or
- (viii) from Christmas Island to the Cocos Islands; or
- (ix) from the Cocos Islands to Christmas Island; or

120 Subsections 68(2), (3) and (4)

Omit “or the Cocos Islands” (wherever occurring), substitute “, the Cocos Islands or Christmas Island”.

121 Paragraph 68(9)(e)

Omit “or the Cocos Islands”, substitute “, the Cocos Islands or Christmas Island”.

122 Section 68A

Omit “or the Cocos Islands” (wherever occurring), substitute “, the Cocos Islands or Christmas Island”.

123 Subsections 69A(2) and (4)

Omit “or the Cocos Islands” (wherever occurring), substitute “, the Cocos Islands or Christmas Island”.

124 Paragraph 69A(9)(c)

Omit “or the Cocos Islands” (wherever occurring), substitute “, the Cocos Islands or Christmas Island”.

125 Paragraph 69A(13)(b)

Omit “or the Cocos Islands”, substitute “, the Cocos Islands or Christmas Island”.

126 Subsections 70(1), (3) and 70C(3)

Omit “or the Cocos Islands” (wherever occurring), substitute “, the Cocos Islands or Christmas Island”.

127 Paragraphs 75A(2)(c), (d), (e), (f) and (g)

Omit “or the first Cocos Islands port of entry” (wherever occurring), substitute “the first Cocos Islands port of entry or the first Christmas Island port of entry”.

128 Paragraphs 75A(12)(a) and (b)

Omit “or the Cocos Islands” (wherever occurring), substitute “, the Cocos Islands or Christmas Island”.

129 Subsection 75A(14)

Omit “or the Cocos Islands”, substitute “, the Cocos Islands or Christmas Island”.

130 Subsection 75B(1)

Omit “or the Cocos Islands” (wherever occurring), substitute “, the Cocos Islands or Christmas Island”.

131 Subsection 78A(1) (after paragraph (b) of the definition of vessel)

Insert:

(ba) a Christmas Island vessel; or

132 Paragraph 86E(1)(c)

Omit “or in the Cocos Islands”, substitute “, in the Cocos Islands or in Christmas Island”.

133 Paragraph 87(1)(e)

Omit “or the Cocos Islands” (wherever occurring), substitute “, the Cocos Islands or Christmas Island”.

134 At the end of subparagraphs 87(1)(j)(i), (ii) and (iii)

Add “and”.

135 After subparagraph 87(1)(j)(iv)

Insert:

(iva) on voyages between ports in Christmas Island; and

136 Paragraph 87(1)(j)

Omit “or the Cocos Islands”, substitute “, the Cocos Islands or Christmas Island”.

137 Paragraph 87(1)(lb)

Omit “or the Cocos Islands”, substitute “, the Cocos Islands or Christmas Island”.

138 Paragraph 87(1)(m)

Omit “or from the Cocos Islands”, substitute “, from the Cocos Islands or from Christmas Island”.

139 Paragraph 87(1)(qa)

Omit “or the Cocos Islands” (wherever occurring), substitute “, the Cocos Islands or Christmas Island”.

140 Paragraph 87(1A)(a)

Repeal the paragraph, substitute:

- (a) apply in, or relate to, Australia, the Cocos Islands and Christmas Island; or

141 At the end of paragraph 87(1A)(c)

Add:

- ; or (d) apply in, or relate to, Christmas Island only.

142 After subsection 87(1B)

Insert:

(1BA) Without limiting the generality of subsection (1), regulations may be made under that subsection for the purpose of preventing the spread of disease or pests to, or from, quarantine stations in Christmas Island or for the purpose of preventing, eradicating or controlling diseases or pests in Christmas Island, including regulations:

- (a) conferring functions and powers, and imposing duties, on quarantine officers, including:
 - (i) powers to enter, search and examine premises; and
 - (ii) powers to question persons; and

- (iii) powers to examine animals and plants; and
- (b) prohibiting the entry of animals into areas adjoining quarantine stations in Christmas Island; and
- (c) requiring the registration of live-stock and other domestic animals in Christmas Island; and
- (d) prohibiting the abandonment of animals in Christmas Island; and
- (e) requiring the notification of diseases or pests in animals and plants in Christmas Island; and
- (f) regulating the disposal of dead animals in Christmas Island; and
- (g) providing for the eradication of vermin in Christmas Island; and
- (h) prohibiting the growing of particular plants in Christmas Island or in parts of Christmas Island; and
- (i) providing for the destruction of animals or plants in Christmas Island; and
- (j) providing for the payment of compensation to the owners of any animals or plants destroyed in pursuance of the regulations.

143 After subsection 87(1C)

Insert:

- (1D) Despite the generality of section 8 of the *Christmas Island Act 1958*, an ordinance of Christmas Island has effect to the extent only that it is capable of operating concurrently with this Act and the regulations.

Part 2—Quarantine expenses and fees

144 Section 59A

Omit “, owner and agent”, substitute “and owner”.

145 At the end of section 59A

Add:

(2) Subject to subsection 63AA(1), if:

- (a) a vessel is ordered into quarantine or ordered to be treated;
and
- (b) a person is the agent of the master or owner of the vessel at the time when a service is provided as a result of the vessel’s having been so ordered into quarantine or ordered to be so treated;

that agent is liable to pay to the Commonwealth, on behalf of that master or owner, the expenses connected with the performance of that service.

146 Section 61

Repeal the section.

147 Section 63 (second sentence)

Omit “or agents”.

148 At the end of section 63

Add:

(2) Subject to subsection 63AA(1), if:

- (a) the Minister appoints a medical officer to take charge of the crew and passengers of a vessel while in quarantine; and
- (b) the Minister fixes the amount of remuneration to be paid to the medical officer for his or her services; and
- (c) a person is the agent of the owner of the vessel at the time when that remuneration is fixed;

that agent is liable to pay to the Commonwealth, on behalf of that owner, the remuneration so fixed.

149 After section 63A

Insert:

63AA Additional provisions concerning agent's liability under section 59A or 63

- (1) If the master or owner of a vessel has met the liability to the Commonwealth:
 - (a) under subsection 59A(1) in respect of expenses connected with the performance of a service referred to in paragraph 59A(1)(a), (b) or (c); or
 - (b) under subsection 63(1) in respect of remuneration to be paid to a medical officer appointed by the Minister;the liability of the agent of that master or owner is thereby discharged.
- (2) The liability of an agent of a master or owner to make a payment to the Commonwealth on behalf of the master or owner:
 - (a) in respect of expenses connected with the performance of a service referred to in paragraph 59A(1)(a), (b) or (c); or
 - (b) in respect of remuneration to be paid to a medical officer appointed by the minister under subsection 63(1);is not affected by the fact that, at the time the payment is required to be made, the agent had not recovered an amount equivalent to those expenses or that remuneration from the master or owner.
- (3) If:
 - (a) the agent of a master or owner makes a payment to the Commonwealth on behalf of the master or owner:
 - (i) in respect of expenses connected with the performance of a service referred to in paragraph 59A(1)(a), (b) or (c); or
 - (ii) in respect of remuneration to be paid to a medical officer appointed by the Minister under subsection 63(1); and
 - (b) at the time when the payment is made, the agent had not collected an amount equivalent to those expenses or that remuneration from the master or owner;

the agent may recover such an amount from the master or owner as a debt due to the agent.

150 After subsection 64(1)

Insert:

(1AA) Subject to subsection (1AB), if:

- (a) animals, plants or other goods are subject to quarantine or are under quarantine surveillance; and
- (b) a person is the agent of the importer or owner of those animals, plants or other goods at the time when a service referred to in paragraph (1)(a), (b), (c) or (d) is provided as a result of those animals, plants or other goods being subject to quarantine or under quarantine surveillance;

the agent must pay to the Commonwealth, on behalf of the importer or owner, any expenses connected with the performance of that service in respect of those animals, plants or other goods.

(1AB) If the importer or owner has met the liability to the Commonwealth under subsection (1) in respect of any expenses connected with the performance of a service referred to in paragraph (1)(a), (b), (c) or (d), the liability of the agent of the importer or owner is thereby discharged.

(1AC) The liability of an agent of an importer or owner to make a payment to the Commonwealth on behalf of the importer or owner in respect of any expenses connected with the performance of a service referred to in paragraph (1)(a), (b), (c) or (d) is not affected by the fact that, at the time when the payment is required to be made, the agent has not recovered an amount equivalent to those expenses from the importer or owner.

(1AD) If:

- (a) in accordance with subsection (1AA), the agent for an importer or owner makes a payment to the Commonwealth on behalf of the importer or owner in respect of any expenses connected with the performance of a service referred to in paragraph (1)(a), (b), (c) or (d); and
 - (b) at the time when the payment is made, the agent has not collected an amount equivalent to those expenses from the importer or owner;
-

the agent may recover such an amount from the importer or owner as a debt due to the agent.

151 Subsection 64(3)

Omit “subsection (1)”, substitute “this section”.

152 Paragraph 64(3)(b)

After “the owner of the animals, plants or goods”, insert “, or the agent of that owner,”.

153 Subsection 64(4)

After “the owner of the animals, plants or goods concerned”, insert “or the agent of that owner”.

154 Subsection 86E(2A)

Repeal the subsection, substitute:

(2A) A determination may:

- (a) except to the extent that the determination relates to a quarantine service to which paragraph (b) applies—state the period within which fees are to be paid; and
- (b) to the extent that the determination relates to a quarantine service for which the fees can be worked out before the provision of the service:
 - (i) make provision for an intended recipient of the service and if there is a person who is known to the agent of the intended recipient, that agent, to be informed of the fees before the service is provided; and
 - (ii) permit a quarantine officer to withhold the provision of the service until the payment of the fees.

155 After subsection 86E(2C)

Insert:

(2CA) Without limiting the generality of paragraph (2C)(b), the reference to a fee as set out in that paragraph includes a reference to a fee that is a percentage per annum of the basic fee, worked out on a daily basis, for each day after the payment day on which the basic fee remains unpaid.

Part 3—Performance of quarantine officer functions

156 Subsection 5(1)

Insert:

protective service officer means a protective service officer within the meaning of the *Australian Protective Service Act 1987*.

157 Subsection 5(1) (definition of *protective service officer*)

Repeal the definition, substitute:

protective service officer means a protective service officer within the meaning of the *Australian Federal Police Act 1979*.

159 Subsection 5(1) (definition of *Quarantine officer*)

Repeal the definition, substitute:

quarantine officer means a person appointed under subsection 9(2), 9AA(3) or 9A(1).

160 Subsection 5(1)

Insert:

State officer means:

- (a) an employee of a State or Territory, or an employee of an authority of a State or Territory (including a member of the police force or police service of a State or Territory); or
 - (b) a State or Territory office holder;
- who is covered by an arrangement made under:
- (c) section 11; or
 - (d) section 71 of the *Public Service Act 1999* in respect of quarantine officer powers and functions.

161 After section 5

Insert:

5AA References to *quarantine officer*

- (1) A reference to a *quarantine officer* in a context that relates only to human quarantine is a reference to a quarantine officer (human quarantine).
- (2) A reference to a *quarantine officer* in a context that relates only to animals is a reference to a quarantine officer (animals).
- (3) A reference to a *quarantine officer* in a context that relates only to plants is a reference to a quarantine officer (plants).
- (4) A reference to a *quarantine officer* in any other case is a reference to a quarantine officer (human quarantine), a quarantine officer (animals) or a quarantine officer (plants).

162 Subsection 9(2)

Omit all of the words after “appoint”, substitute:

to be a quarantine officer (human quarantine):

- (a) an APS employee; or
- (b) a State officer; or
- (c) a police officer; or
- (d) a protective service officer; or
- (e) an employee of a body corporate established or continued in existence for a public purpose by or under a Commonwealth law, if the body corporate is prescribed for the purposes of this paragraph.

163 At the end of section 9

Add:

- (4) A State officer may be appointed to be a Chief Quarantine Officer under this section.

164 Subsection 9AA(3)

Omit all of the words after “by writing,”, substitute:

appoint:

- (a) an APS employee; or
- (b) a State officer; or
- (c) a police officer; or

- (ca) a protective service officer; or
 - (cb) an employee of a body corporate established or continued in existence for a public purpose by or under a Commonwealth law, if the body corporate is prescribed for the purposes of this paragraph;
- to be either or both of the following:
- (d) a quarantine officer (animals);
 - (e) a quarantine officer (plants).

165 At the end of section 9AA

Add:

- (5) A State officer may be appointed to be a Chief Quarantine Officer under this section.

166 Subsection 9A(1)

Omit all of the words after “her,”, substitute:

appoint:

- (a) an APS employee; or
- (b) a State officer; or
- (c) a police officer; or
- (d) a protective service officer; or
- (e) an employee of a body corporate established or continued in existence for a public purpose by or under a Commonwealth law, if the body corporate is prescribed for the purposes of this paragraph;

to be a temporary quarantine officer for such period as he or she thinks necessary.

167 Savings

The amendments made by items 162, 164 and 166 do not affect the appointment of a quarantine officer that was in force immediately before the commencement of this item.

169 After paragraph 11(1)(a)

Insert:

- (aa) the exercise of functions and powers by State officers who are appointed as quarantine officers or Chief Quarantine Officers;

170 At the end of section 11

Add:

Note: Section 71 of the *Public Service Act 1999* also provides for the making of arrangements with a State or Territory for State or Territory officers to perform Commonwealth functions.

Schedule 2—Amendment of the Imported Food Control Act 1992

1 After section 2

Insert:

2A Object of Act

The object of this Act is to provide for the compliance of food imported into Australia with Australian food standards and the requirements of public health and safety.

2 Subsection 3(1)

Insert:

compliance agreement means a compliance agreement entered into under section 35A.

3 Subsection 3(1)

Insert:

label means any tag, brand, mark or written statement, any representation or design, or any descriptive matter, attached to, used in connection with, or accompanying, any food or package containing food.

4 Subsection 3(1)

Insert:

package includes any container or wrapper in or by which food is wholly or partly encased, covered, enclosed, contained or packaged and, in respect of food that is in more than one package, includes each such package.

5 After subsection 8(1)

Insert:

- (1A) Paragraph (1)(a) does not apply to applicable standards relating to information on labels for packages containing food.

6 After section 8

Insert:

8A Labelling offence

- (1) A person may only deal with food imported into Australia if the food meets applicable standards relating to information on labels for packages containing food.

Penalty: Imprisonment for 10 years.

- (2) Subsection (1) does not apply to a dealing with food for the purpose of altering or replacing the label on the package containing the food in order to meet applicable standards referred to in that subsection.

Note: A defendant bears an evidential burden in relation to the matter in this subsection. See subsection 13.3(3) of the *Criminal Code*.

7 Subsections 9(1) and (1A)

Repeal the subsections, substitute:

- (1) A person (other than an officer of Customs, or an authorised officer, acting in the course of his or her duties) may only deal in a particular manner with examinable food that the person knows:
- (a) has been imported into Australia; and
 - (b) is food in respect of which a food control certificate has not been issued;
- if either of the following applies:
- (c) the person has obtained the approval of an authorised officer to deal with the food in that manner;
 - (d) the person is dealing with the food in that manner in accordance with a compliance agreement.

Penalty: Imprisonment for 10 years.

- (1A) A person (other than an officer of Customs, or an authorised officer, acting in the course of his or her duties) may only deal in a particular manner with examinable food that the person knows:
-

- (a) has been imported into Australia; and
- (b) is food in respect of which a food control certificate has been issued; and
- (c) is food for which an imported food inspection advice has not been issued;

if either of the following applies:

- (d) the person has obtained the approval of an authorised officer to deal with the food in that manner;
- (e) the person is dealing with the food in that manner in accordance with a compliance agreement.

Penalty: Imprisonment for 10 years.

- (1B) Subsection (1A) does not apply to a dealing with food for the purpose of altering or replacing the label on the package containing the food in order to meet applicable standards relating to information on labels for packages containing food.

Note: A defendant bears an evidential burden in relation to a matter in this subsection. See subsection 13.3(3) of the *Criminal Code*.

Note: The heading to section 9 is replaced by the heading “**Offences relating to dealing with examinable food**”.

8 Paragraph 16(2)(i)

Repeal the paragraph, substitute:

- (i) permit variation in the incidence of inspection, or inspection and analysis, of food if:
 - (i) a recognised foreign government certificate or a recognised quality assurance certificate covering the food is given to an authorised officer and the officer has no reason to doubt the authenticity or reliability of the certificate; or
 - (ii) a compliance agreement applies in respect of the food; and

9 Subsection 23(1)

After “this Act”, insert “or a compliance agreement”.

10 Subsection 24(2)

After “this Act”, insert “or a compliance agreement”.

11 Before section 36

Insert:

35A Compliance agreements

- (1) The Secretary may, on behalf of the Commonwealth, enter into an agreement (a *compliance agreement*) with a person in connection with:
 - (a) the application of particular procedures in respect of food that may be imported into Australia in accordance with the agreement; and
 - (b) the keeping of records by the person in respect of the person's compliance with those procedures; and
 - (c) the supervision, monitoring and testing of the person's compliance with those procedures.
- (2) The terms of a compliance agreement must be in accordance with this section and the regulations.
- (3) A compliance agreement may provide that, in circumstances stated in the agreement, the Secretary may, by written notice given to a party to the agreement other than the Commonwealth, cancel or vary the agreement or suspend its operation for a period, or until the happening of an event, stated in the notice.
- (4) An authorised officer may notify a party to a compliance agreement other than the Commonwealth in writing of procedures to which the agreement is to extend in addition to those specifically referred to in the agreement and, if such a notification is given, the agreement has effect as if those procedures were referred to in it.
- (5) An authorised officer may allow food to which a compliance agreement applies to be dealt with on the basis of a certificate or assurance, given by a person authorised under the agreement to give such a certificate or assurance, that all the procedures to which the agreement refers have been complied with in respect of the food.
- (6) A party to a compliance agreement other than the Commonwealth commits an offence if:

- (a) that party fails to ensure that a requirement imposed on that party under the agreement in respect of a matter referred to in paragraph (1)(a) or (c) is complied with; and
- (b) the failure caused a significant risk to public health.

Penalty: Imprisonment for 10 years.

- (7) A party to a compliance agreement other than the Commonwealth commits an offence if that party fails to ensure that a requirement imposed on that party under the agreement in respect of a matter referred to in paragraph (1)(a) or (c) is complied with.

Penalty: 200 penalty units.

- (8) A party to a compliance agreement other than the Commonwealth commits an offence if that party fails to ensure that a requirement imposed on that party under the agreement in respect of a matter referred to in paragraph (1)(b) is complied with.

Penalty: 60 penalty units.

- (9) An offence against subsection (8) is an offence of strict liability.

- (10) In this section:

procedures, in respect of food, includes any dealings with food and also includes the inspection and testing (including the incidence of inspection and testing), analysis and treatment of food.

12 Subsection 36(11) (after paragraph (d) of the definition of *chargeable service*)

Insert:

- (da) the entering into a compliance agreement in respect of the food; or

13 Subparagraph 42(9)(b)(i)

Omit “24(4)”, substitute “28(4)”.

Schedule 3—Carry forward of research and development expenditure

Pig Industry Act 2001

1 At the end of section 10

Add:

- (10) If there is an unmatched R&D excess for a financial year that started or starts on or after 1 July 2001, the amount spent by the eligible body in the following financial year on activities that qualify, under the funding contract, as research and development activities is taken, for the purposes of this section (including for the purposes of this subsection and subsection (11)), to be increased by the amount of the unmatched R&D excess.

Note: This means that research and development expenditure that is not “50% matched” in one financial year because of the cap in subsection (6) or paragraph (8)(a) can be carried forward into later years.

- (11) For the purposes of subsection (10), there is an *unmatched R&D excess* for a financial year if:
- (a) the eligible body spends a particular amount (the *R&D spend amount*) in the financial year on activities that qualify, under the funding contract, as research and development activities; and
 - (b) because of the operation of subsection (6) or paragraph (8)(a), the matching payments in respect of the financial year are less than 50% of the R&D spend amount;
- and the amount of the unmatched R&D excess is:

$$\text{R\&D spend amount in the financial year} - \left(2 \times \begin{array}{c} \text{The amount of the} \\ \text{matching payments for} \\ \text{the financial year} \end{array} \right)$$

- (12) Subsection (13) applies if the sum of the amounts that became payable to the Corporation under paragraph 30(1)(b) of the Research and Development Act was less than 50% of the

Corporation's qualifying R&D expenditure because of the operation of section 31 or 32 of that Act.

- (13) If this subsection applies, the amount spent by the eligible body in the financial year that started on 1 July 2001 on activities that qualify, under the funding contract, as research and development activities is taken, for the purposes of this section (including for the purposes of subsections (10) and (11)), to be increased by the amount worked out using the following formula:

$$\text{The Corporation's qualifying R\&D expenditure} - \left(2 \times \begin{array}{l} \text{The sum of the amounts} \\ \text{that became payable to} \\ \text{the Corporation under} \\ \text{paragraph 30(1)(b) of} \\ \text{the Research and} \\ \text{Development Act} \end{array} \right)$$

- (14) In subsections (12) and (13):

Corporation means the Pig Research and Development Corporation.

qualifying R&D expenditure of the Corporation means the sum of the amounts spent by the Corporation before 30 June 2001 on activities covered by section 33 of the Research and Development Act (other than paragraph 33(1)(d) of that Act).

Research and Development Act means the *Primary Industries and Energy Research and Development Act 1989*.

Wool Services Privatisation Act 2000

2 After subsection 31(8)

Insert:

- (8A) If there is an unmatched R&D excess for a financial year that started or starts on or after 1 July 2001, the amount spent by the research body in the following financial year on activities that qualify, under the funding contract, as research and development activities is taken, for the purposes of this section (including for the purposes of this subsection and subsection (8B)), to be increased by the amount of the unmatched R&D excess.

Note: This means that research and development expenditure that is not “50% matched” in one financial year because of the cap in subsection (6) or paragraph (7)(a) can be carried forward into later years.

(8B) For the purposes of subsection (8A), there is an **unmatched R&D excess** for a financial year if:

(a) the research body spends a particular amount (the **R&D spend amount**) in the financial year on activities that qualify, under the funding contract, as research and development activities; and

(b) because of the operation of subsection (6) or paragraph (7)(a), the category B payments in respect of the financial year are less than 50% of the R&D spend amount;

and the amount of the unmatched R&D excess is:

$$\text{R\&D spend amount in the financial year} - \left(2 \times \begin{array}{c} \text{The amount of the} \\ \text{category B payments for} \\ \text{the financial year} \end{array} \right)$$

Schedule 4—Amendment of the Quarantine Amendment (Health) Act 2003

1 Subsection 2(1) (table item 3, 2nd column)

Omit “*Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 1) 2003*”, substitute “*Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 1) 2004*”.

[*Minister’s second reading speech made in—
House of Representatives on 29 May 2002
Senate on 10 February 2004*]

(119/02)
