

EXPLANATORY STATEMENT

Issued by Authority of the Director of Biosecurity and the Director of Human Biosecurity

Biosecurity Act 2015

Biosecurity (Conditionally Non-prohibited Goods) Determination 2021

Legislative Authority

The *Biosecurity Act 2015* (the Act) provides the regulatory framework for the management of diseases and pests that may cause harm to human, animal or plant health or the environment.

The Act also gives effect to Australia's relevant international rights and obligations, including Australia's obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). The SPS Agreement provides for Australia's obligations with respect to the Appropriate Level of Protection (ALOP), which, for Australia, is a high level of sanitary and phytosanitary protection aimed at reducing biosecurity risks to a very low level, but not zero.

Subsection 174(1) of the Act provides that the Director of Biosecurity and Director of Human Biosecurity may jointly determine that specified classes of goods must not be brought or imported into Australian territory unless specified conditions (including conditions for administrative purposes) are complied with.

Under subsection 174(3) of the Act, the Director of Biosecurity and the Director of Human Biosecurity must apply the ALOP for Australia in conducting a risk assessment for the purpose of deciding whether to make a determination under subsection 174(1).

Under paragraph 541(4)(a) of the Act, in performing functions or exercising powers under the Act, including making a determination under s174, the Director of Biosecurity must have regard to the objects of the Act.

Purpose

The purpose of the *Biosecurity (Conditionally Non-prohibited Goods) Determination 2021* (Goods Determination) is to provide, for the purposes of subsection 174(1) of the Act, that specified classes of goods are conditionally non-prohibited goods which must not be brought or imported into Australian territory unless certain conditions are met, and to specify these conditions.

The conditions may relate to, for example, how the goods are manufactured, prepared or used; the origin of the goods; or the need for an import permit granted under Division 3 of the Biosecurity Act (import permit).

The Goods Determination puts in place regulatory controls by specifying conditions that must be met to bring or import the classes of goods into Australian territory, in order to manage biosecurity risks associated with those goods to meet the ALOP for Australia.

Background

The Department of Agriculture, Water and the Environment (the department) and the Department of Health co-administer the Act, which establishes the framework for biosecurity risk management. The detail and specific information requirements for certain activities under the Act are provided for in the *Biosecurity Regulation 2016* and other delegated legislation, including this Goods Determination.

In order to regulate the bringing or importing of goods into Australian territory, the department identifies priority pests and diseases of concern and identifies the measures to be put in place to respond if they are found in Australia. In determining the appropriateness of the measures to put in place to manage biosecurity risks, the department evaluates the likelihood of entry, establishment or spread of a pest or disease within Australian territory in accordance with the ALOP for Australia. The department also evaluates the associated potential harm and economic consequences, again in accordance with Australia's ALOP.

Goods entering Australia carry a risk that they may introduce pests and diseases that could have a negative impact on the environment or human, plant or animal health.

Impact and Effect

The Goods Determination prescribes certain classes of goods as conditionally non-prohibited goods, and the conditions that these goods must satisfy to be brought or imported into Australian territory. The Director of Biosecurity and Director of Human Biosecurity applied the ALOP for Australia in conducting risk assessments for the purpose of deciding whether to make this determination under s174(1) specifying particular classes of goods. The Director of Biosecurity also had regard to the objects of the Act in accordance with subsection 541(4) of the Act.

In addition to the power to make this instrument under subsection 174(1) of the Act, subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make, grant, or issue any instrument of a legislative or administrative character (including rules, regulations, or by-laws) the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary any such instrument. The Goods Determination repeals the *Biosecurity (Prohibited and Conditionally Non-Prohibited Goods) Determination 2016* (the 2016 Determination) and replaces it.

Consultation

The Goods Determination reflects previous extensive consultation processes.

During the 2015–16 implementation of the Biosecurity Act, the department promoted awareness among clients, stakeholders and the general public of the Biosecurity legislation, including the 2016 Determination. The department provided extensive opportunities for clients and stakeholders to be informed about the changes to the legislative framework to ensure they understood their obligations and the implications of the legislative framework on their business. Stakeholders and clients were consulted and engaged throughout the development of the draft delegated legislation and were encouraged to provide feedback. Fact sheets supporting the release of delegated legislation for public consultation were available on the department's website and were distributed to stakeholders to provide additional clarity.

The department used a multi-faceted engagement approach, including:

- targeted and voluntary engagement;
- forums;
- workshops;
- information sessions;
- industry notifications;
- media releases;
- industry eLearning;
- fact sheets.

The consultation undertaken built upon extensive consultation on the Biosecurity Act which began in 2009. During the development process, the department consulted with industry representatives from the cargo, shipping, ports, supply chain and logistics, airline, airport, customs, environment, animal, plant, invasive species, primary production and petroleum/exploration sectors through working groups.

The department has consulted widely on amendments to the Determination since 2016 and has taken into account feedback and communication with industry stakeholders including representative bodies. Consultation has been undertaken directly with the importers and industry bodies through a number of channels, including information sessions, alerts and change notices on the Biosecurity Import Conditions website, Sanitary and Phytosanitary Measures agreement notifications, publication of information on the department's website, and import industry advice notices from time to time. Consultation also occurs with the Department of Health on human health-related amendments to the Determination.

The Office of Best Practice Regulation has indicated that as the proposal is unlikely to have more than a minor regulatory impact the preparation of a RIS is not required. (ID 43702). The department consulted the Office of Parliamentary Counsel in the drafting of this Determination.

Details/ Operation

Details of the Goods Determination are set out in **Attachment A**.

The Goods Determination is a legislative instrument for the purposes of the *Legislation Act 2003* (the Legislation Act). Subsection 174(5) of the Biosecurity Act provides that the Goods Determination is not subject to disallowance. This is because the decision to make a determination under subsection 174(1) of the Biosecurity Act relies on technical and scientifically-based evidence to specify conditions required to be complied with to meet the ALOP for Australia in relation to the bringing in or importation of conditionally non-prohibited goods.

As the Goods Determination is not subject to disallowance, a Statement of Compatibility with Human Rights is not required in accordance with section 9(1) of the Human Rights (Parliamentary Scrutiny) Act 2011.

Details of the *Biosecurity (Conditionally Non-prohibited Goods) Determination 2021*

Part 1 – Preliminary

Section 1 – Name

This section provides that the name of the instrument is the *Biosecurity (Conditionally Non-prohibited Goods) Determination 2021* (the Goods Determination).

Section 2 – Commencement

Section 2 provides that the whole of the Goods Determination commences the day after it is registered.

Section 3 – Authority

This section provides that the Goods Determination is made under subsection 174(1) of the *Biosecurity Act 2015* (the Act).

Section 4 – Schedules

Section 4 provides that each instrument that is specified in a Schedule to the Goods Determination is amended or repealed as set out in the applicable items in the relevant Schedule, and any other item in a Schedule to the Goods Determination has effect according to its terms.

Item 1 of Schedule 1 to the Goods Determination repeals the *Biosecurity (Prohibited and Conditionally Non-Prohibited) Goods Determination 2016*.

Section 5 – Purpose and application of this instrument

Subsection 5(1) specifies that the purpose of the Goods Determination is to provide that specified classes of goods must not be brought or imported into Australian territory unless specified conditions are complied with (see subsection 174(1) of the Biosecurity Act).

The note following subsection 5(1) makes clear that the goods determined by the Goods Determination are ***conditionally non-prohibited goods*** for the purposes of the Act (and are specified in Part 2 of the Goods Determination).

Subsection 5(2) provides that the Goods Determination does not apply in relation to goods that are or are intended to be brought or imported into Christmas Island or Cocos (Keeling) Islands, or on or after 1 July 2016, into Norfolk Island.

Subsection 5(3) makes clear, for the purposes of subsection 5(1), that a reference to Australian territory in the Goods Determination does not include a reference to Christmas Island, Cocos (Keeling) Islands, or Norfolk Island.

The first note following subsection 5(3) directs the reader to the following instruments that apply in relation to goods that are, or are intended to be, brought or imported into Christmas Island, Cocos (Keeling) Islands, or on or after 1 July 2016, into Norfolk Island:

- *Biosecurity (Prohibited and Conditionally Non-prohibited Goods–Christmas Island) Determination 2016*
- *Biosecurity (Prohibited and Conditionally Non-prohibited Goods–Cocos (Keeling) Islands) Determination 2016*
- *Biosecurity (Prohibited and Conditionally Non-prohibited Goods–Norfolk Island) Determination 2016*.

The second note following subsection 5(3) directs the reader to the *Biosecurity (Prohibited and Conditionally Non-prohibited Goods–Torres Strait) Determination 2016* that applies in relation to goods that are, or are intended to be, moved from the protected zone area or the Torres Strait permanent biosecurity monitoring zone to another part of Australian territory.

Section 6 – Definitions

Section 6 provides definitions for terms used in the Goods Determination. Some of these definitions refer to defined terms used in the Act, as well as in other legislation including the *Gene Technology Act 2000*, *Therapeutic Goods Act 1989* and *Biosecurity Regulation 2016*, as in force from time to time. These Acts and regulation are available on the Federal Register of Legislation at www.legislation.gov.au.

The following terms are references to specified lists prepared by the Director of Biosecurity and published on the department’s website, as existing from time to time:

- FMD-free country list;
- Listed country for canine semen;
- Listed country for natural casings derived from bovine, caprine, ovine or porcine animals;
- Listed dried or preserved cut flowers or foliage;
- Listed fresh cut flowers or foliage;
- Listed fresh produce for human consumption;
- Listed hitchhiker pest;
- Listed medicinal mushrooms;
- Listed mushrooms or truffles (dried);
- Listed mushrooms or truffles (frozen);
- Listed permitted *Allium* spp. Seeds;
- Listed permitted *Arecaceae* (palm) seeds;
- Listed permitted seeds;
- Listed plant fibres;
- List of Biosecurity Preparedness Plans;
- List of Hitchhiker Pest Host Countries or Regions;
- List of Overseas Authorities–Aquatic Animals for Import;
- List of Species of Fresh Cut Flowers and Foliage with Alternative Conditions for Import;
- List of Treatment Providers;

The following terms also refer to external materials:

- *Index Herbariorum* – the publication ‘Index Herbariorum’ as maintained by the New York Botanical Garden, as exists on 11 March 2021 (available at sweetgum.nybg.org/science/ih);

- *International Plant Protection Convention and phytosanitary certificate* – refers to the International Plant Protection Convention done at Rome on 6 December 1951, as in force for Australia on 11 March 2021. The Convention is in Australian Treaty Series 1952 No. 5 (1952] ATS 5) (available in the Australian Treaties Library at www.austlii.edu.au);
- *official veterinarian* – refers to the same term as in the *Terrestrial Animal Health Code*, 28th edition, 2019, promulgated by the World Organisation for Animal Health, (available at www.oie.int/en). Under that Code, official veterinarian means “a veterinarian authorised by the Veterinary Authority of the country to perform certain designated official tasks associated with animal health or public health and inspections of commodities and, when appropriate, to certify in conformity with the provisions of Chapters 5.1 and 5.2” of that Code;
- *United Nations Convention on the Law of the Sea* – refers to the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982, as in force for Australia on 11 March 2021. The Convention is in Australian Treaty Series 1994 No. 31 (1994] ATS 31) (available in the Australian Treaties Library at www.austlii.edu.au).

Section 7 – Meaning of covered by

Section 7 provides the meaning of **covered by**. Goods are **covered by** an import permit if the permit authorises a person to bring or import the goods into Australian territory.

Section 8 – Meaning of instant use

Section 8 provides the meaning of **instant use**. Goods for human consumption are for **instant use** if:

- the goods have been commercially manufactured and packaged; and
- the amount in the package is intended to be a single serving; and
- the goods require very little treatment or preparation to be used as intended by the manufacturer.

Section 9 – Meaning of retorted

Section 9 provides the meaning of **retorted**. It provides that animal products have been retorted if they have been heated in a hermetically-sealed container to a minimum core temperature of 100°C, obtaining an F₀ value of at least 2.8.

In relation to goods, other than animal products, they have been retorted if they have been heated in a hermetically-sealed container for a time, and to a temperature, sufficient to make the contents commercially sterile.

Section 10 – Meaning of shelf-stable

Section 10 provides the meaning of **shelf-stable**. Goods are **shelf-stable** if:

- the goods have been commercially manufactured; and
- the goods have been packaged by the manufacture; and
- the goods are in that package; and
- the package has not been opened or broken; and
- the goods are able to be stored in the package at room or ambient temperature; and

- the goods do not require refrigeration or freezing before the package is opened.

Part 2—Conditionally non-prohibited goods

Part 2 provides for the classes of goods that may be brought or imported into Australian territory if specified conditions are complied with.

These goods are classified into four divisions, which are the following:

- Division 1 – animals, plants, biological material and infectious agents;
- Division 2 – other goods;
- Division 3 – additional conditions relating to hitchhiker pests;
- Division 4 – goods intended to be brought or imported from Papua New Guinea into the protected zone area under the Torres Strait Treaty.

Each division provides for the specified conditions that must be complied with in relation to the goods covered by that division. These conditions may include that an import permit covering those goods be obtained or, where applicable, the relevant alternative conditions be complied with.

The requirement for some goods to be covered by an import permit reflects that the bringing or importation of the goods poses an unacceptable level of biosecurity risk unless the conditions that are stipulated in an import permit are complied with. Where relevant, alternative conditions are provided to reflect that the biosecurity risks associated with the goods can be managed to an acceptable level by complying with those specified conditions. This will provide the person intending to bring in or import those goods with the flexibility to choose whether to obtain an import permit or to satisfy the alternative conditions.

Division 1—Animals, plants, biological material and infectious agents

Section 11 – Classes of goods to which this Division applies

Subsection 11(1) provides that Division 1 of Part 2 of the Goods Determination applies to the following classes of goods:

- live animals and animal reproductive material;
- live plants;
- animal material and goods containing, or made of, animal material;
- plant products and goods containing, or made of, plants;
- infectious agents and microorganisms;
- fungi and goods containing, or made of, fungi.

The note following subsection 11(1) alerts the reader that *animal reproductive material*, *live plants*, *infectious agents*, and *microorganism* are defined in section 6 of the Goods Determination.

Subsection 11(2) provides that the classes of goods in subsection 11(1) do not include certain goods. These goods are the following:

- goods sourced from the ocean, or the ocean floor, within the exclusive economic zone of Australia that have not left the exclusive economic zone of Australia before being brought or imported into Australian territory;
- biological additives in unused blood collection tubes;
- a dye or colouring agent of animal origin (other than carminic acid in relation to which alternative conditions are specified in section 39 of the Goods Determination) that is used on, or is an ingredient of, goods included in a class of goods to which Division 1 of Part 2 applies;
- lactose or any derivative of lactose (other than lactose, or a derivative of lactose, that is intended for animal consumption, veterinary therapeutic use or use as fertiliser);
- a plant or goods produced by, or made from, a plant (***excluded plant goods***) specified in the table in subsection 11(3).

The table in subsection 11(3) sets out those excluded plant goods for the purposes of paragraph 11(2)(e).

Subsections 11(2) and (3) reflect that certain goods that would otherwise be included within the classes of goods specified at subsection 11(1) do not pose an unacceptable level of biosecurity risk and are permitted to be brought or imported into Australian territory without having to meet any conditions.

Section 12 – Conditions—general

Subsection 12(1) provides that, subject to subsections 12(3) to (5) and Division 4 of Part 2 of the Goods Determination, the goods to which Division 1 of Part 2 of the Goods Determination applies must not be brought or imported into Australian territory unless the goods are covered by an import permit or, if there are alternative conditions for those goods in a provision of Division 1 of Part 2, comply with those specified alternative conditions.

The first note following subsection 12(1) alerts the reader that if Division 3 of Part 2 of the Goods Determination (which deals with hitchhiker pests) applies to goods included in a class of goods to which a provision of Division 1 of Part 2 applies, the additional conditions in Division 3 must also be complied with.

The second note following subsection 12(1) alerts the reader that Division 4 of Part 2 of the Goods Determination deals with goods that are intended to be brought or imported from Papua New Guinea into the protected zone under the Torres Strait Treaty.

Subsection 12(2) clarifies that if alternative conditions are specified in relation to particular goods in Division 1 of Part 2, a person may still bring in the goods under an import permit instead of meeting the alternative conditions.

Subsections 12(3), (4) and (5) prescribe the conditions that apply to bringing or importing goods that are covered under Division 1 of Part 2 of the Goods Determination (***the relevant goods***) that are made of, or are made from, or contain, two or more different kinds of goods (***the component goods***), into Australian territory.

Subsection 12(3) provides that if no alternative conditions are specified for one of those component goods, the relevant goods must not be brought in or imported unless they are covered by an import permit. This means that for goods that have more than one component,

an import permit is required to bring in or import those goods if there are no alternative conditions specified for a component of the goods.

The example provided to explain the effect of subsection 12(3) is that of a person who wishes to bring or import into Australian territory a commercial quantity of goods made from meat and honey (*relevant goods*). The person must obtain an import permit covering those goods. This is because meat in commercial quantities must not be brought or imported into Australian territory unless it is covered by an import permit. In this instance, the alternative conditions set out in section 22 for honey will not apply because an import permit is required for the meat component of the relevant goods.

Subsections 12(4) and (5) apply in relation to goods (the *relevant goods*) included in a class of goods to which Division 1 of Part 2 of the Goods Determination applies which are made of, made from, or contain, 2 or more different kinds of goods (the *component goods*).

Subsection 12(4) provides that if there are alternative conditions for the relevant goods specified in another provision of Division 1 of Part 2 and alternative conditions for each of the component goods specified in another provision of Division 1 of Part 2, the relevant goods must not be brought in or imported unless one of the following applies:

- the relevant goods are covered by an import permit;
- the alternative conditions specified for the relevant goods are complied with; or
- the alternative conditions specified for each of the component goods are complied with.

The example provided in relation to subsection 12(4) is a person who wishes to bring or import into Australian territory noodles that contain meat-based flavouring and eggs. The person must have an import permit covering those goods or comply with the alternative conditions for noodles (as specified in section 20 of the Goods Determination) or both of the alternative conditions for meat-based flavouring and eggs (as specified in sections 17 and 19 of the Goods Determination respectively).

Subsection 12(5) provides that if there are alternative conditions for each of the component goods specified in one or more provisions of Division 1 of Part 2 and subsection 12(4) does not apply, the relevant goods must not be brought or imported into Australian territory unless:

- they are covered by an import permit; or
- the alternative conditions specified for each of the component goods are complied with.

The example provided in relation to subsection 12(5) is a person who wishes to bring in relevant goods that are made of fish and dairy products. The person must have an import permit covering those goods or comply with both the alternative conditions for fish products (as specified in section 16) and for dairy products (as specified in section 18).

Section 13 – Biosecurity preparedness plans

Section 13 provides that goods that are included in a class of goods to which Division 1 of Part 2 of the Goods Determination applies, and that are the subject of an import declaration, must not be brought or imported into Australian territory unless, at the time the declaration is made, a plan to manage the biosecurity risks associated with bringing or importing goods of that class (or goods including goods of that class) into Australian territory is listed in the List

of Biosecurity Preparedness Plans, and is ordinarily accessible through the department's website.

Biosecurity preparedness plans are taken into account in assessing the biosecurity risks that apply to bringing or importing the goods in question into Australian territory. The plans inform what risk management measures are applied to goods as part of managing the relevant biosecurity risks. In this way, the condition is intended to achieve Australia's Appropriate Level of Protection (ALOP) which requires that biosecurity risks are reduced to a very low level but not zero.

Section 14- Alternative conditions- live animals and animal reproductive material

The table in section 14 specifies, for the purposes of paragraph 12(1)(b) of the Goods Determination, alternative conditions for bringing or importing certain live animals and animal reproductive material into Australian territory.

The alternative conditions specified in column 2 of the table in section 14 apply in relation to the corresponding categories of goods listed in column 1. These categories of goods are the following:

- live domestic cats, dogs, or rabbits brought or imported from New Zealand;
- live domestic cats or dogs brought or imported from Norfolk Island;
- canine semen.

Section 15- Alternative conditions- dead animals, animal parts and related goods

Subsection 15(1) provides that section 15 does not apply to dead animals, animal parts or related goods that are intended for animal consumption, use as a bioremedial agent or fertiliser, growing purposes, or veterinary therapeutic use.

The table in subsection 15(2) specifies, for the purposes of paragraph 12(1)(b) of the Goods Determination, the alternative conditions that apply to the goods covered by section 15.

Column 2 of the table in subsection 15(2) specifies the alternative conditions that apply in relation to the corresponding categories of goods in column 1 of the table. These categories of goods are the following:

- animal skins and hides;
- goods made with rawhide;
- animal bristles or hair, other than animal bristles or hair for use in animal husbandry or human or animal grooming; or wool or fibre from sheep, goats or camelids;
- animal bristles or hair for use in animal husbandry or human or animal grooming;
- feathers;
- catgut strings derived from animal intestines for use in musical instruments or sporting equipment;
- catgut derived from animal intestines;
- wool or fibre from sheep, goats or camelids;
- eggshells or eggshell ornaments;
- kopi luwak;
- fishing flies;
- the following goods:

- sea shells, other than oyster shells, that are not part of manufactured goods;
- natural or cultured pearls for jewellery, personal use or display purposes;
- dead animals, animal parts, animal secretions or animal tissue, other than goods covered by another item in the table;
- casein glue or gelatine glue;
- untanned and partially processed game trophies, hides or skins that:
 - are not derived from avian animals; and
 - are from New Zealand;
- untanned and partially processed game trophies, hides or skins that are derived from avian animals; and are from New Zealand;
- animal trophies, artefacts or handicraft items;
- bones, horns, antlers, tusks or teeth;
- empty giant African snail shells.

Section 16- Alternative conditions- dead aquatic animals, aquatic animal parts and related goods

Subsection 16(1) provides that section 16 applies to dead aquatic animals, aquatic animal parts and related goods that are not viable and are not intended for animal consumption, use as bioremedial agent or fertiliser, growing purposes, or veterinary therapeutic use.

The table in subsection 16(2) specifies, for the purposes of paragraph 12(1)(b) of the Goods Determination, alternative conditions for bringing or importing certain dead aquatic animals, aquatic animal parts and related goods into Australian territory.

Column 2 of the table in subsection 16(2) specifies the alternative conditions that apply to the corresponding categories of goods listed in column 1 of the table. These categories of goods are the following:

- teleost fish, other than fish of the family Salmonidae or Plecoglossidae;
- teleost fish from New Zealand, other than fish of the family Salmonidae or Plecoglossidae;
- cartilaginous fish (including dried fish) other than fish meal;
- non-salmonid finfish or finfish product;
- fish or fish products of the family Salmonidae or Plecoglossidae, other than roe or caviar, or salmon oil;
- roe or caviar of the family Salmonidae or Plecoglossidae;
- fish oil for human consumption;
- cnidarians, crustaceans (other than prawns, freshwater crayfish or crustacean meal), echinodreams, molluscs (other than oysters in full or half shell or freshwater snails) poriferans and tunicates;
- freshwater crayfish;
- prawns or prawn products, other than dried prawns, or prawn meals, or prawn-based food products;
- prawn-based food products;
- dried prawns, other than crustacean meal;
- oysters in half shell from New Zealand.

Section 17- Alternative conditions- meat and meat products

Subsection 17(1) provides that section 17 does not apply to meat or meat products that are intended for animal consumption, or use as bioremedial agents or fertiliser, or growing purposes or veterinary therapeutic use.

The table in subsection 17(2) specifies, for the purposes of paragraph 12(1)(b) of the Goods Determination, alternative conditions for bringing or importing meat and meat products into Australian territory.

Column 2 of the table in subsection 17(2) sets out the alternative conditions that apply to the corresponding categories of goods listed in column 1 of the table. These categories of goods are the following:

- meat-based flavouring product;
- meat or meat products from New Zealand, other than pork or avian meat;
- pâté (whether or not egg is included as an ingredient) or foie gras;
- pork crackling or pork rind;
- meat floss;
- meat jerky or biltong, other than meat jerky or biltong derived from porcine animals;
- natural casings derived from bovine, caprine, ovine or porcine animals;
- meat or meat products, other than meat or meat products covered by another item in the table.

Section 18 - Alternative conditions- dairy products

Subsection 18(1) provides that section 18 does not apply to dairy products that are intended for animal consumption, use as bioremedial agents or fertiliser, growing purposes, or veterinary therapeutic use.

The table in subsection 18(2) specifies, for the purposes of paragraph 12(1)(b) of the Goods Determination, alternative conditions for bringing or importing certain dairy products into Australian territory.

Column 2 of the table in subsection 18(2) sets out the alternative conditions that apply to the corresponding categories of goods listed in column 1 of the table. These categories of goods are the following:

- dairy products, other than infant formula, or dairy products intended for use as stockfeed;
- infant formula;
- commercial dairy products from New Zealand, other than dairy products intended for use as stockfeed;
- the following goods:
 - cheesecakes;
 - cooked biscuits, cooked breads, cooked cakes, or cooked pastries containing uncooked dairy fillings or toppings;
- dairy-based beverages;
- chocolate;
- clarified butter, oil or ghee;

Section 19 - Alternative conditions- eggs and egg products

Subsection 19(1) provides that section 19 does not apply to eggs or egg products that are intended for animal consumption, use as bioremedial agents or fertiliser, growing purposes or veterinary therapeutic use.

The table in subsection 19(2) specifies, for the purposes of paragraph 12(1)(b) of the Goods Determination, the alternative conditions for bringing or importing eggs and egg products into Australian territory.

Column 2 of the table in subsection 19(2) sets out the alternative conditions that apply to the corresponding categories of goods in column 1 of the table. These categories of goods are the following:

- whole eggs;
- egg products, goods that include egg as an ingredient, or goods that contain egg;
- egg waffles;
- mooncakes that include egg;

Section 20- Alternative conditions- miscellaneous goods for human consumption

Section 20 provides, for the purposes of paragraph 12(1)(b) of the Goods Determination, alternative conditions for bringing or importing miscellaneous goods for human consumption into Australian territory.

Column 2 of the table in section 20 sets out the alternative conditions that apply to the corresponding categories of goods listed in column 1 of the table. These categories of goods are the following:

- biscuits, bread, cakes or pastries, other than goods to which column 1 of item 4 in the table in subsection 18(2) applies;
- luwak coffee (in any form);
- any of the following containing grain, seeds, dried fruits or nuts: muesli bars, uncooked ready-to-bake bread mix, and breakfast cereals;
- soup;
- birds' nests;
- noodles or pasta that contain or include as an ingredient eggs or egg products, or meat-based flavouring products;
- snails;
- protein powder or supplements (which may include enzymes or egg proteins).

Section 21 - Alternative conditions- animal products exported from Australian territory

The table in section 21 sets out, for the purposes of paragraph 12(1)(b) of the Goods Determination, alternative conditions for bringing or importing animal products that were exported from Australian territory into Australian territory.

Column 2 of the table in section 21 sets out the alternative conditions that apply in relation to animal products exported from Australian territory.

Section 22 - Alternative conditions- honey and bee products

Subsection 22(1) provides that section 22 does not apply to honey or bee products that are intended for:

- stock feed, including food for bees; or
- use as bioremedial agents or fertiliser; or
- growing purposes.

The table in subsection 22(2) specifies alternative conditions, for the purposes of paragraph 12(1)(b) of the Goods Determination, for bringing or importing honey and certain bee products into Australian territory.

Column 2 of the table in subsection 22(2) sets out the conditions that apply to the corresponding category of goods listed in column 1 of the table. This category of goods is the following:

- honey (whether or not containing honeycomb);
- bee venom;
- bee wax;
- honeycomb;
- propolis;
- royal jelly.

The table in subsection 22(3) specifies further alternative conditions, that apply in addition to the conditions specified in subsection 22(2), in relation to certain honey and bee products that enter, or are unloaded in, Western Australia.

Column 2 of the table in subsection 22(3) sets out the alternative condition that applies to the corresponding categories of goods listed in column 1 of the table. These categories of goods are:

- honey (whether or not containing honeycomb), other than:
 - honey in individually packaged units with a capacity of 150 millilitres or less; or
 - powdered honey in individually packaged units with a capacity of 35grams or less;
- honeycomb;
- propolis, other than:
 - propolis in the form of a liquid tincture, powder, tablet or cream, in individually packaged units with a capacity of 200 millilitres or less; or
 - propolis in a cosmetic in individually packaged units with a capacity of 200 millilitres or less;
- royal jelly, other than royal jelly:
 - in capsules that contain a quantity of royal jelly of 800 milligrams or less; or
 - in individually packaged units with a capacity of 35 grams or less; or
 - in individually packaged units with a capacity of 150 millilitres or less.

Section 23 - Alternative conditions- foods and supplements for animals

Section 23 specifies, for the purposes of paragraph 12(1)(b) of the Goods Determination, alternative conditions for bringing or importing foods and supplements for animals into Australian territory.

Column 2 of the table in section 23 sets out alternative conditions that apply in relation to the corresponding categories of goods listed in column 1 of the table. These categories of goods are the following:

- food for consumption by domestic cats or domestic dogs;
- rawhide chews that are derived from bovine animals, and are for consumption by domestic dogs;
- rawhide chews that are derived from porcine animals, and are for consumption by domestic dogs;
- cuttlefish bone;
- dead teleost fish (other than fish from the family Salmonidae or Plecoglossidae) or cephalopods from New Zealand;
- dead cephalopods that were jig caught;
- dead cephalopods that were caught using trawl or purse seine fishing methods;
- marine molluscs, other than oysters or snails;
- food for consumption by pet fish in enclosed aquariums or ponds;
- food or supplements for animals containing alcohol, citric acid, lactic acid or xanthan gum;
- purified amino acid that is a highly processed and purified extract from plant materials;
- purified amino acid that is a highly processed and purified extract from a microbial fermentation process;
- purified vitamins (other than vitamin D3) that are a highly processed and purified extract from plant materials;
- purified vitamins (other than vitamin D3) that are a highly processed and purified extract from a microbial fermentation process;
- purified vitamin D3 that is a highly processed derivative of wool grease;
- food or supplements for animals containing *Saccharomyces cerevisiae*.

Section 24 – Alternative conditions- cosmetics and related goods

Section 24 specifies, for the purposes of paragraph 12(1)(b) of the Goods Determination, alternative conditions for bringing or importing cosmetics and related goods into Australian territory.

Column 2 of the table in section 24 sets out the alternative conditions that apply in relation to the corresponding categories of goods listed in column 1 of the table. These categories of goods are:

- cosmetics containing biological material for human use;
- soap.

Section 25- Alternative conditions- live plants for use as nursery stock

Section 25 specifies, for the purposes of paragraph 12(1)(b) of the Goods Determination, alternative conditions for bringing or importing live plants for use as nursery stock into Australian territory.

Column 2 of the table in section 25 sets out the alternative conditions that apply to the category of goods listed in column 1. The only category of goods listed in column 1 is the live *Orchidaceae* (orchid) plant imported as tissue cultures.

Section 26- Alternative conditions- miscellaneous plant materials and plant products

Subsection 26(1) provides that section 26 does not apply to plant materials or plant products that are intended for animal consumption, or use as a bioremedial agent or fertiliser, or veterinary therapeutic use.

The table in subsection 26(2) specifies, for the purposes of paragraph 12(1)(b) of the Goods Determination, alternative conditions for bringing or importing miscellaneous plant materials and plant products into Australian territory.

Column 2 of the table in subsection 26(2) sets out the alternative conditions that apply in relation to the corresponding categories of goods listed in column 1 of the table. These categories of goods are the following:

- processed plant products, other than goods that are covered by another provision in Division 1 of Part 2 of the Goods Determination;
- herbarium specimens, including vascular plants or non-vascular plants and fungi (including algae, lichens, mosses, liverworts and hornworts);
- unprocessed straw articles or products;
- purified plant deoxyribonucleic acid (DNA) or ribonucleic acid (RNA);
- dried *Tillandsia* spp.;
- dried or preserved cut flowers or foliage;
- plant material (including wood or bamboo, plant or plant parts with soil attached) embedded in a compound that has been fully sealed using a heat, moulding or chemical process;
- green coffee beans for processing, other than coffee beans that have been digested through an animal;
- herbal tea in tea bags or capsules;
- loose leaf herbal mixtures for human consumption;
- dried hops (*Humulus lupulus*);
- artificial plants on natural stems;
- plant fibres;
- pine cones;
- unprocessed cotton including raw or seed cotton, cotton lint, linters, cotton waste, and waste cotton;
- grape vine articles;
- the following plants: *Hyparrhenia* spp. (excluding *H. gazensis*), *Imperata cylindrica*, *Miscanthus sinensis*, *Pennisetum purpureum*, *Thamnocalamus* spp. and *Thamnochortus* spp.;
- banana fibre articles;
- articles stuffed with herbs or seeds;
- raw, unprocessed or cured tobacco leaf;
- dried herb products not for human consumption;

Section 27 - Alternative conditions – nuts for human consumption

Section 27 specifies, for the purposes of paragraph 12(1)(b) of the Goods Determination, alternative conditions for bringing or importing nuts for human consumption into Australian territory.

Column 2 of the table in section 27 sets out the alternative conditions that apply to the corresponding categories of goods listed in column 1 of the table. These categories of goods are the following:

- peanuts (*Arachis hypogaea*) and pine nuts (*Pinus* spp.);
- chestnuts (*Castanea* spp.) grown in New Zealand;
- chestnuts (*Castanea* spp.) grown in Australian territory.

Section 28 - Alternative conditions – cereals, grains, legumes, pulses and oil seeds for human consumption

Section 28 specifies, for the purposes of paragraph 12(1)(b) of the Goods Determination, alternative conditions for bringing or importing cereals, grains, legumes, pulses (other than peanuts) and oil seeds for human consumption into Australian territory.

Column 2 of the table in section 28 sets out the alternative condition for these goods.

Section 29 - Alternative conditions – fresh cut flowers and foliage for decorative purposes

Section 29 specifies, for the purposes of paragraph 12(1)(b) of the Goods Determination, alternative conditions for bringing or importing fresh cut flowers and foliage for decorative purposes into Australian territory.

Column 2 of the table in section 29 sets out the alternative conditions that apply to the categories of goods listed in column 1 of the table. These categories of goods are the following:

- fresh cut flowers and foliage other than for personal use;
- fresh cut flowers and foliage for personal use;
- *Lilium* spp. cut flowers other than for personal use;
- *Lilium* spp. cut flowers for personal use.

Section 30 - Alternative conditions – packaging

Section 30 specifies, for the purposes of paragraph 12(1)(b) of the Goods Determination, alternative conditions for bringing or importing packaging into Australian territory.

Column 2 of the table in section 30 sets out the alternative condition that applies to the corresponding categories of goods in column 1 of the table. These categories of goods are the following:

- packaging for live plants including buckwheat hulls (*Fagopyrum esculentum*), cardboard, cellulose wadding, charcoal, damp paper, granulated cork, perlite, peat moss, plastic foam, sawdust, shredded clean paper, synthetic material, wood shavings, wood wool, vermiculate and sphagnum pulp;

- packaging for produce, including cardboard boxes and any other packaging products.

Section 31 - Alternative conditions – fertilisers, soil conditioners, and growing media of plant origin

Section 31 specifies, for the purposes of paragraph 12(1)(b) of the Goods Determination, alternative conditions for bringing or importing fertilisers, soil conditioners and growing media of plant origin into Australian territory.

Column 2 of the table in section 31 sets out the alternative conditions that apply to the corresponding categories of goods in column 1 of the table. These categories of goods are the following:

- peat (being black peat, peat moss, sphagnum peat moss or white peat) that was grown, processed and packaged in, and brought or imported from, an FMD-free country;
- peat (being black peat, peat moss, sphagnum peat moss or white peat) that was not grown, processed or packaged in an FMD-free country; and is in a quantity of less than 10 kilograms;
- peat (being black peat, peat moss, sphagnum peat moss or white peat) that was not grown, processed or packaged in an FMD-free country; and is in a quantity of 10 kilograms or more;
- coir peat (whether compressed or non-compressed), including in any of the following forms: bales, blocks, bricks, or briquettes.

Section 32 - Alternative conditions – produce for human consumption

Section 32 specifies, for the purposes of paragraph 12(1)(b) of the Goods Determination, alternative conditions for bringing or importing produce for human consumption into Australian territory.

Column 2 of the table in section 32 sets out the alternative conditions that apply in relation to the corresponding categories of goods in column 1 of the table. These categories of goods are the following:

- fruit, vegetables, leaves, herbs and fungi (other than goods covered by another item in the table);
- unprocessed fresh fruit, vegetables, fungi, leaves or herbs;
- species of mushrooms or truffles that were grown in New Zealand; and are not for use for medicinal purpose;
- species of mushrooms or truffles that were not grown in New Zealand; and are not for use for medicinal purposes;
- species of mushrooms or truffles that are for use other than for medicinal purposes;
- species of mushrooms or fungi that are for use for medicinal purposes, other than goods covered by item 7;
- species of mushrooms that are in the form of a tablet, capsule, liquid, injectable vial or ointment, or are an ingredient in food or a beverage, including in a tea bag; and are for use for medicinal purposes (item 7);
- semi-processed onions or shallot bulbs;
- semi-processed pineapples;
- semi-processed garlic;
- chilled pomelo;

- chilled durian.

Section 33 - Alternative conditions – seeds

Section 33 specifies, for the purposes of paragraph 12(1)(b) of the Goods Determination, alternative conditions for bringing or importing seeds into Australian territory.

Column 2 of the table in section 33 sets out the alternative conditions that apply to the corresponding categories of goods in column 1 of the table. These categories are the following:

- seeds, other than seeds covered by another item in this table;
- *Allium* spp.;
- *Areaceae* (palm) species for sowing.

Section 34 – Alternative conditions – timber and timber products

Section 34 specifies, for the purposes of paragraph 12(1)(b) of the Goods Determination, alternative conditions for bringing or importing timber and timber products into Australian territory.

Column 2 of the table in section 34 sets out the alternative conditions that apply to the corresponding categories of goods in column 1 of the table. These categories are the following:

- timber and timber products, other than goods covered by another item in the table;
- charcoal of plant origin, other than charcoal intended for animal consumption, veterinary therapeutic use, fertiliser, or aquaculture;
- wood pellets, briquettes or agglomerated logs of plant origin;
- bark for human consumption or human therapeutic use;
- sawdust and woodchips of plant origin only, other than goods intended for animal consumption; or use as a bioremedial agent or fertiliser;
- oak barrels (with or without chestnut bark hoops).

Section 35 – Alternative conditions – starter cultures

Subsection 35(1) provides that section 35 applies to starter cultures specified in the table at subsection 35(3) and derivatives of starter cultures specified in that table.

Subsection 35(2) provides that, for the purposes of paragraph 12(1)(b) of the Goods Determination, alternative conditions for bringing or importing the goods covered by section 35 into Australian territory are that the goods are intended for any of the following purposes:

- use in human food or beverages;
- cosmetic use;
- in-vitro laboratory work;
- in-vitro work in laboratory organisms; or
- human therapeutic use.

The table in subsection 35(3) sets out the starter cultures for the purposes of subsection 35(1). To bring or import these starter cultures into Australian territory, the alternative conditions in subsection 35(2) must be met.

Section 36 – Alternative conditions – highly refined organic chemicals and substances for certain purposes

Subsection 36(1) provides that section 36 applies to highly refined organic chemicals and substances specified in the table at subsection 36(3) (the *goods*).

Subsection 36(2) provides that, for the purposes of paragraph 12(1)(b), alternative conditions for bringing or importing the goods covered by section 36 into Australian territory are that the goods are:

- not intended for animal consumption, use as bioremedial agents or fertiliser, or veterinary therapeutic use; and
- highly processed; and
- purified substances.

The table in subsection 36(3) specifies highly refined organic chemicals and substances for the purposes of subsection 36(1). To bring or import these highly refined organic chemicals and substances into Australian territory, the alternative conditions in subsection 36(2) must be met.

Section 37 – Alternative conditions – biological material intended for personal use

Subsection 37(1) provides that section 37 applies to any biological material (the *goods*).

Subsection 37(2) sets out that, for the purposes of paragraph 12(1)(b) of the Goods Determination, alternative conditions for bringing or importing the goods into Australian territory are that:

- the goods are intended for human therapeutic use; and
- the goods do not contain bee pollen; and
- the goods are for personal use by the person bringing in or importing the goods, or are for use by any spouse, de facto partner, child, parent or sibling of the person bringing in or importing the goods; and
- the goods are in a quantity of not more than 3 months' supply; and
- the goods are accompanied by documentation stating that the goods are in a quantity of not more than 3 months' supply

Section 38 – Alternative conditions – fertilisers, soil conditioners and soil growth supplements made of animal material, plant material or biological material

Subsection 38(1) provides that section 38 applies to the following classes of goods:

- fertilisers made of animal material, plant material or biological material;
- soil conditioners made of animal material, plant material or biological material; and
- supplements intended for use to promote growth in soil that are made of animal material, plant material or biological material.

The note following subsection 38(1) alerts the reader that Division 2 of Part 2 of the Goods Determination applies to chemical and mined fertilisers, soil conditioners and soil growth supplements and refers the reader to section 45 of the Goods Determination.

Subsection 38(2) sets out, for the purposes of paragraph 12(1)(b), the alternative condition for bringing or importing the goods covered by section 38 into Australian territory. This alternative condition is that the only animal materials, plant materials or biological materials used to make the goods are one or more of the following:

- Alcohols;
- citric acid;
- cultures of *Saccharomyces cerevisiae* (for example Baker's yeast or Brewer's yeast);
- lactic acid;
- purified amino acids (other than those derived from neural material);
- purified vitamins;
- xanthan gum.

Section 39 – Alternative conditions – other biological material for certain purposes

Subsection 39(1) provides that section 39 applies to biological material specified in the table at subsection 39(4) (the **goods**).

Subsection 39(2) specifies that, for the purposes of paragraph 12(1)(b) of the Goods Determination, alternative conditions for bringing or importing the goods into Australian territory are that:

- the goods:
 - are intended for human consumption, in-vitro purposes or human therapeutic use;
 - or
 - are contained in cosmetics for human use; and
- the goods have been commercially prepared and packaged; and
- the goods are ready for retail sale without any further processing.

Subsection 39(3) provides that, for the purposes of paragraph 12(1)(b) of the Goods Determination, alternative conditions for bringing or importing the goods covered by section 39 are:

- the goods are intended for veterinary therapeutic use or use as cosmetics for animals;
- the goods have been commercially prepared and packaged;
- the goods are ready for retail sale without any further processing;
- if the goods contain ingredients of animal, plant or microbial origin—those ingredients are biological material specified in the table in subsection 39(4);
- the goods are accompanied by documentation stating the ingredients contained in the goods, or, if applicable, a declaration or other documentation from the manufacturer of the goods stating that the ingredients of the goods are biological material specified in the table at subsection 39(4).

The table in subsection 39(4) specifies biological material for the purposes of subsection 39(1). The biological material in this table must meet the alternative conditions in subsection 39(2) or (3) to be brought or imported into Australian territory.

Section 40 – Alternative conditions – gelatine and its derivatives intended for certain purposes

Section 40 specifies alternative conditions, for the purposes of paragraph 12(1)(b) of the Goods Determination, for bringing or importing gelatine and its derivatives into Australian territory.

Column 2 of the table in section 40 sets out the alternative conditions that apply to the corresponding categories of goods listed in column 1 of the table. These categories of goods are the following:

- gelatine intended for human consumption, or human therapeutic use, or in-vitro purposes, or in-vivo work in laboratory organisms;
- gelatine intended for culture media;
- gelatine intended for veterinary therapeutic use or use in cosmetics for animals.

Section 41- Alternative conditions – bioremedial products

Section 41 specifies, for the purposes of paragraph 12(1)(b) of the Goods Determination, alternative conditions for bringing or importing bioremedial products into Australian territory.

Column 2 of the table in section 41 sets out the alternative conditions that apply to bioremedial products.

Division 2— Other goods

Division 2 of Part 2 of the Goods Determination provides for conditionally non-prohibited goods that are intended to be brought or imported into Australian territory and that are not covered by Division 1 of Part 2.

The note to Division 2 of Part 2 alerts the reader that if Division 3 of Part 2 (which deals with hitchhiker pests) applies to goods included in a class of goods to which a provision of Division 2 of Part 2 applies, the additional conditions in Division 3 of Part 2 must also be complied with.

Section 42 - Biosecurity preparedness plans

Section 42 provides that goods that are included in a class of goods to which a section of Division 2 of Part 2 of the Goods Determination applies, and that are the subject of an import declaration, must not be brought or imported into Australian territory unless, at the time the declaration is made, a plan to manage the biosecurity risks associated with bringing or importing goods of that class (or goods including goods of that class) into Australian territory is listed in the List of Biosecurity Preparedness Plans, and is ordinarily accessible through the department's website.

Biosecurity preparedness plans are taken into account in assessing the biosecurity risks that apply to bringing or importing the goods in question into Australian territory. The plans inform what risk management measures are applied to goods as part of managing the relevant

biosecurity risks. In this way, the condition is intended to achieve Australia's Appropriate Level of Protection (ALOP).

Section 43 – Soil

Subsection 43(1) provides that section 43 applies to soil (other than soil adhering to goods) and goods containing soil.

Subsection 43(2) provides that the goods in subsection 43(1) must not be brought or imported unless one of the following applies:

- the goods are covered by an import permit; or
- the goods have been treated using a method that the Director of Biosecurity is satisfied is appropriate to manage the biosecurity risks to an acceptable level; or
- the following conditions are complied with:
 - after arriving at a landing place or port in Australian territory, the goods are delivered directly to premises for biosecurity activities carried out in relation to the goods in accordance with an approved arrangement;
 - the goods must be used only for in-vitro purposes; and
 - the goods must not be used for isolation of infectious agents.

Section 44 – Water

Subsection 44(1) provides that section 44 applies to water and goods containing water.

Subsection 44(2) provides that section 44 does not apply to commercially bottled water, rose water, orange flower water, holy water for personal use, and water included as an ingredient in a food product. These goods are excepted as they do not pose an unacceptable level of biosecurity risk and are allowed to be brought or imported into Australian territory without having to meet any conditions.

Subsection 44(3) sets out the conditions that apply to bringing or importing goods that are covered under section 44. These goods must not be brought or imported into Australian territory unless one of the following applies:

- The goods are covered by an import permit; or
- The goods have been treated using a method that the Director of Biosecurity is satisfied is appropriate to manage the biosecurity risks to an acceptable level; or
- The goods are sea or ocean water, with a quantity of less than 5 litres, they are free from suspended and solid material and they must be used only for in-vitro purposes.

Section 45 – Chemical or mined fertilisers, soil conditioners and soil growth supplements

Subsection 45(1) provides that section 45 applies to chemical or mined fertilisers, chemical or mined soil conditioners, and chemical or mined supplements used to promote growth in soil.

The note following subsection 45(1) makes clear that Division 1 of Part 2 of the Goods Determination applies to fertilised, soil conditioners and soil growth supplements that are made of animal material, plant material or biological material, and refers the reader to section 38 of the Goods Determination.

Subsection 45(2) provides that liquid chemical fertilisers must not be brought in or imported unless they are accompanied by a declaration by the manufacturer of the goods stating that the goods do not contain any ingredients of animal, plant or microbial origin.

Subsection 45(3) provides that goods included in a class of goods to which section 45 applies (other than liquid chemical fertilisers) must not be brought in or imported into Australian territory unless they are covered by an import permit or comply with the conditions specified in the table in subsection 45(3)(b).

Column 2 of the table in subsection 45(3)(b) sets out the alternative conditions that apply to the corresponding categories of goods listed in column 1 of the table. These categories are the following:

- chemical fertilisers (other than liquid chemical fertilisers), chemical soil conditioners and chemical soil growth supplements, if the net weight of each packed unit of the goods is not more than 100 kilograms;
- chemical fertilisers (other than liquid chemical fertilisers), chemical soil conditioners and chemical soil growth supplements, if the net weight of each packed unit of the goods is more than 100 kilograms;
- mined fertilisers, mined soil conditioners and mined soil growth supplements.

Section 46 – Used beehives and used beekeeping equipment

Subsection 46(1) provides that section 46 applies to used beehives and used beekeeping equipment, including protective clothing.

Subsection 46(2) provides that the goods covered by section 46 must not be brought in or imported into Australian territory unless the goods are covered by an import permit.

Section 47- Equipment that has directly or indirectly come into contact with horses

Subsection 47(1) provides that section 47 applies to equipment that has directly or indirectly come into contact with horses, with such equipment including the following:

- grooming items, tools and accessories used in caring for horses (for example, feed bags);
- awards (for example, ribbons and garlands);
- riding accessories (for example, collars, reins, bridles, blinkers and saddles);
- horse shoes;
- equestrian and horse riding clothing and accessories, including polo equipment, saddle rugs and pads, riding and stock whips, boots, spurs, jodhpurs, gloves and helmets;
- any other clothing, footwear, accessories, tools or items, worn or used, that have been in contact with horses or exposed to areas where horses are or have been present.

Subsection 47(2) provides that goods covered by section 47 must not be brought or imported into Australian territory unless they are covered by an import permit, or:

- have been treated either with gamma irradiation to a level that achieves a minimum of 50 kGray at a facility that the Director of Biosecurity is satisfied can treat horse equipment, so that biosecurity risks associated with the goods are managed to an

acceptable level, or with a disinfectant which is appropriate to manage biosecurity risks to an acceptable level; and

- have not been in contact with equine animals after being treated as above;
- are accompanied by a government-endorsed treatment certificate, attesting that the treatment requirements specified in subparagraphs 47(2)(a)(i) and (ii) have been met; or the goods are treated, while subject to biosecurity control, using a method that the Director of Biosecurity is satisfied is appropriate to manage biosecurity risks associated with the goods to an acceptable level.

Section 48 – Tyres

Subsection 48(1) provides that section 48 applies to used tyres on rims, used tyres off rims, and commercially retreaded tyres.

Subsection 48(2) provides that used tyres on rims must not be brought in or imported into Australian territory unless the following conditions are met:

- they have been cleaned before export to remove contamination; and
- they are inflated, on rims and with beading sealed; and
- they are accompanied by a declaration from the exporter attesting that the above two requirements have been met.

Subsection 48(3) provides that used tyres off rims must not be brought in or imported unless the following conditions are met:

- they have been fumigated to manage biosecurity risks associated with the goods to an acceptable level; and
- they are accompanied by a declaration from the exporter stating that the used tyres have been cleaned before export to remove contamination.

Subsection 48(4) provides that commercial retreaded tyres must not be brought in or imported into Australian territory unless the goods are covered by an import permit.

Section 49 – Used machinery and equipment (other than used beekeeping equipment, used veterinary equipment or equipment that has come into contact with horses)

Subsection 49(1) provides that section 49 applies to the following classes of goods:

- used earth moving, agricultural, construction or timber felling machinery or equipment (including assembled parts);
- used mining machinery, including oil-field drilling machinery that has come into contact with soil or other material of animal or plant origin;
- used grain-milling machinery;
- field-tested agricultural machinery that has come into contact with soil or material of animal or plant origin;
- food processing equipment.

Subsection 49(2) provides that section 49 does not apply to used beekeeping equipment, used veterinary equipment or used equipment that has directly or indirectly come into contact with horses. These goods are excepted from the requirements of section 49, as the conditions for bringing or importing these goods into Australian territory are outlined in sections 46, 50 and 47 respectively.

Subsection 49(3) specifies the conditions that apply to goods that are covered by section 49. These are that the goods must not be brought or imported into Australian territory unless the goods were cleaned before export to be clean and free from animal and plant material and soil, and are accompanied by documentation stating the method of cleaning.

Section 50 – Used veterinary equipment other than from New Zealand

Subsection 50(1) provides that the class of goods to which section 50 applies is used veterinary equipment other than from New Zealand.

Subsection 50(2) provides that the class of goods covered by section 50 must not be brought or imported into Australian territory from an exporting country other than New Zealand unless the goods:

- are sealed in one or more bags with the exporting country's official government seal or quarantine tape; and
- were treated with Trisodium phosphate (Virkon or Virucidal X), or gamma irradiation at 50 kGray, within 72 hours before leaving the exporting country; and
- are accompanied by a declaration, endorsed by an official government veterinarian of the exporting country, stating the following:
 - details of the flight for bringing the goods into Australian territory;
 - a description of each piece of equipment; and
 - that the goods have been treated in the manner described above and the method used to treat the goods.

Section 51 – Used clothes and cloth rags in commercial consignments

Subsection 51(1) provides that the classes of goods to which section 51 applies is commercial consignments of used clothes and commercial consignments of used cloth rags.

Subsection 51(2) provides that a consignment of goods included in a class of goods to which section 51 applies must not be brought or imported into Australian territory unless the consignment is accompanied by a supplier's declaration stating that the consignment is clean and free from live insects, animal debris, seeds, bark, soil and any other contamination.

Section 52 – Mineral and metal ores, rocks and sand

Subsection 52(1) provides that the classes of goods to which section 52 applies are mineral and metal ores, rocks and sand.

Subsection 52(2) provides that a consignment of goods included in a class of goods to which section 52 applies must not be brought or imported into Australian territory unless the consignment is accompanied by a declaration by the manufacturer, exporter or supplier, or a commercial invoice, stating that the consignment is clean and free from live insects, animal debris, seeds, bark, soil and any other contamination.

Section 53 – Human blood, human tissue and similar goods

Subsection 53(1) provides that the classes of goods to which section 53 applies are human blood or blood components, human enzymes, human secretions, excretions or exudates, human semen, embryos or ova, human tissue extracts, and human tissue.

Subsection 53(2) provides that goods included in a class of goods to which section 53 applies must not be brought or imported into Australian territory unless the goods are covered by an import permit, or the goods are for human therapeutic use, and are not antibodies or cell lines.

Section 54 – Hair, teeth or bones from a human’s body

Subsection 54(1) provides that the classes of goods to which section 54 applies are hair, teeth and bones from a human’s body (including hair, teeth or bones from a deceased human’s body that have been separated from the deceased human’s body).

Subsection 54(2) provides that goods included in a class of goods to which section 54 applies must not be brought or imported into Australian territory unless the goods are clean and have no adhering tissue, blood or faeces, or permission has been given by a human biosecurity official for the goods to be brought or imported into Australian territory.

Division 3 – Additional conditions relating to hitchhiker pests

Section 55 – Biosecurity preparedness plan

Subsection 55(1) provides that goods that are included in a class of goods to which a section of Division 3 of Part 2 of the Goods Determination applies, and that are the subject of an import declaration, must not be brought or imported into Australian territory unless, at the time the declaration is made, a plan to manage the biosecurity risks associated with bringing or importing goods of that class (or goods including goods of that class) into Australian territory is listed in the List of Biosecurity Preparedness Plans, and is ordinarily accessible through the department’s website.

The plans required by subsection 55(1) are taken into account in assessing the biosecurity risks that apply to bringing or importing the goods in question into Australian territory. The plans inform what risk management measures are applied to goods as part of managing the relevant biosecurity risks. In this way, subsection 55(1) is intended to achieve Australia’s ALOP, which requires that biosecurity risks are reduced to a very low level, but not zero.

Subsection 55(2) provides that the condition in subsection 55(1), and the conditions in section 56, apply in addition to any conditions that must be complied with under Division 1 or Division 2 of Part 2 of the Goods Determination.

Section 56 – Goods posing hitchhiker pest biosecurity risks

Section 56 specifies goods that are likely to contain hitchhiker pests either in or on the goods and provides additional specified conditions for such goods.

Subsection 56(1) specifies the class of goods to which section 56 applies. The class of goods must meet two criteria. Firstly, the goods must be listed in relation to one or more specified hitchhiker pests in the List of Hitchhiker Pest Host Countries or Regions. Secondly, the goods

must be, or have been, produced, stored or loaded onto an aircraft or vessel in a country or region specified in that List for those goods, during the risk period specified in that List for that country or region and those goods and that pest.

Subsection 56(2) provides that goods included in a class of goods to which section 56 applies must not be brought or imported into Australian territory unless the goods meet either the conditions provided in paragraph 56(2)(a) or the conditions in paragraph 56(2)(b).

Paragraph 56(2)(a) provides that goods to which section 56 applies must not be brought or imported into Australian territory unless all of the following apply:

- the goods have been treated using a treatment listed for the goods in the List of Hitchhiker Pest Host Countries or Regions, by a treatment provider listed for that treatment in the List of Treatment Providers; and
- the goods are accompanied by a certificate from the treatment provider stating that the goods have been treated in accordance with this requirement (in subparagraph 55(2)(a)(i)); and
- the goods are free from live listed hitchhiker pests.

Paragraph 56(2)(b) provides that goods to which section 56 applies must not be brought or imported into Australian territory unless all of the following apply:

- the goods are contained in one or more sealed shipping containers;
- each shipping container remains sealed after its arrival in Australian territory until it is opened for the goods to be treated in accordance with subparagraph 56(2)(b)(iii);
- the goods are treated in accordance with an approved arrangement and while subject to biosecurity control, using a treatment that the Director of Biosecurity is satisfied is appropriate to manage the biosecurity risks associated with the goods to an acceptable level (subparagraph 56(2)(b)(iii)).

The conditions in section 56 are intended to manage the biosecurity risks associated with hitchhiker pests by having risk mitigation measures applied offshore, unless the goods are contained inside sealed shipping containers, in which case onshore treatment is also available. Goods which must not be brought or imported into Australian territory unless treated offshore under paragraph 56(2)(a), are classes of goods where any hitchhiker pests that may be present are not able to be contained or managed upon arrival in Australian territory (e.g. vehicles and other break bulk goods which are exposed to the environment when unloaded from conveyances). This is because if hitchhiker pests arrive in Australian territory on goods where the risk is not able to be contained until treatment, there is a risk that those hitchhiker pests may escape and become established in Australia. Where the risk of hitchhiker pests is able to be contained within a sealed shipping container until treatment, goods have the option of being treated onshore under paragraph 56(2)(b).

Section 57 – Other goods that may carry hitchhiker pests

Subsection 57(1) provides that, for the purposes of section 55, section 57 applies to the class of goods that are listed in the list published on the department's website under the name List of Goods That May Carry Hitchhiker Pests, as existing from time to time.

The effect of subsection 57(1) is that goods listed in the List of Goods That May Carry Hitchhiker Pests are subject to the additional condition in section 55 concerning biosecurity preparedness plans.

Subsection 57(2) provides that the class of goods to which section 57 applies does not include goods that consist of corrosive and/or toxic chemicals (or chemicals that are both corrosive and toxic), natural gas or petroleum products if the goods are brought or imported into Australian territory in liquid form, in a bulk vessel and not contained in packaging or other material.

The effect of subsection 57(2) is that the goods listed in subsection 57(2) are exempt from the requirement in section 55 regarding biosecurity preparedness plans. The nature of the goods listed in subsection 57(2) does not support the life of biosecurity pests and diseases and the method of importation does not provide a mechanism by which a hitchhiker pest can be carried by the goods.

Division 4 – Goods intended to be brought or imported from Papua New Guinea into the protected zone area under the Torres Strait Treaty

Section 58 – Goods to be brought or imported from Papua New Guinea into the protected zone area under the Torres Strait Treaty

Subsection 58(1) provides that section 58 applies to bringing or importing the following from Papua New Guinea into the protected zone area under the Torres Strait Treaty:

- fish meat;
- coconut (processed or without husk);
- sago;
- cooked taros, cooked yams and cooked cassava;
- kundu drums made from lizard skin, snake skin, hard treated beeswax or soft wood;
- empty sea shells;
- goods made from dried pandanus or dried palm leaves or both;
- bows of black palm or bamboo;
- spears of bamboo, mangrove or wongai wood with a steel prong;
- beads and jewellery made of seeds;
- wood carvings; and
- goods made from woven fibres

Subsection 58(2) provides that the goods listed in subsection 58(1) must not be brought or imported from Papua New Guinea into the protected zone area unless the goods are covered by an import permit or comply with one of the following:

- the alternative conditions specified in subsection 58(3); or
- alternative conditions for bringing or importing these goods into Australian territory as specified in the relevant provisions in Division 1 of Part 2 of the Goods Determination.

Subsection 58(3) sets out the alternative conditions for the purposes of paragraph 58(2)(b), which if complied with, allow the goods listed in subsection 58(1) to be imported from Papua New Guinea into the protected zone area. These conditions are that:

- the goods are on a vessel that would be a protected zone vessel if it entered a part of Australian territory that is in the protected zone area; and
- the goods:

- are owned by, or under the control of, a traditional inhabitant who is on board that vessel and have been used, are being used, or are intended to be used by him or her in connection with the performance of traditional activities in the protected zone area; or
- are the personal belongings of a person referred to in subparagraph (e)(i) or (ii) of the definition of *protected zone vessel* in subsection 617(4) of the Act; and
- the goods are for personal use.

The first note following subsection 58(3) alerts the reader that this section gives effect to Australia's obligations under the Torres Strait Treaty.

The second note following subsection 58(3) alerts the reader that following terms are defined in subsection 617(4) of the Biosecurity Act: *protected zone area*, *protected zone vessel*, *Torres Strait Treaty*, *traditional activities* and *traditional inhabitant*.

An example is provided following subsection 58(3) to illustrate the effect of section 58. This example is that a person who wishes to bring or import a wood carving from Papua New Guinea into the protected zone area under the Torres Strait Treaty must have an import permit covering the goods, or comply with the alternative conditions in subsection 58(3), or comply with the alternative conditions specified for manufactured wooden goods in item 1 of the table in section 34 of Division 1 of Part 2 of the Goods Determination.

Part 3- Application, saving and transitional provisions

Section 59 – Saving- lists prepared by the Director of Biosecurity

Section 59 provides that, to avoid doubt, a list prepared by the Director of Biosecurity for the purposes of the *Biosecurity (Prohibited and Conditionally Non-Prohibited Goods) Determination 2016* and in force immediately before the commencement of this instrument has effect, immediately after that commencement, as if it had been made for the purposes of this instrument.

Schedule 1- Repeals

Biosecurity (Prohibited and Conditionally Non-prohibited Goods) Determination 2016

Item 1- Whole of the instrument

Item 1 of Schedule 1 repeals the whole of the *Biosecurity (Prohibited and Conditionally Non-prohibited goods) Determination 2016*.