



# **Quarantine Amendment Act 1999**

**No. 196, 1999**



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

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

[Assented to 23 December 1999]

The Parliament of Australia enacts:

### 1 Short title

This Act may be cited as the *Quarantine Amendment Act 1999*.

### 2 Commencement

- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (2) Item 86 of Schedule 1 commences on the same day as the *Environment Protection and Biodiversity Conservation Act 1999*.

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- (3) The remaining items of Schedule 1 commence on a day to be fixed by Proclamation.
  - (4) If those remaining items of Schedule 1 do not commence under subsection (3) within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.

### **3 Schedule(s)**

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Amendment of the Quarantine Act 1908**

### **1 Subsection 2B(1)**

After “quarantinable disease”, insert “or quarantinable pest”.

### **2 Subsections 2B(3) and (4)**

Repeal the subsections, substitute:

- (3) A person is guilty of an offence if:
- (a) a direction is given to the person under subsection (2); and
  - (b) the person fails to comply with the direction.

Maximum penalty: Imprisonment for 10 years.

### **3 Section 4**

Repeal the section, substitute:

### **4 Scope of quarantine**

In this Act, *quarantine* includes, but is not limited to, measures:

- (a) for, or in relation to, the examination, exclusion, detention, observation, segregation, isolation, protection, treatment and regulation of vessels, installations, human beings, animals, plants or other goods or things; and
- (b) having as their object the prevention or control of the introduction, establishment or spread of diseases or pests that will or could cause significant damage to human beings, animals, plants, other aspects of the environment or economic activities.

### **4 Subsection 5(1)**

Insert:

*aircraft* means any machine or craft that can derive support in the atmosphere from the reactions of the air or from buoyancy but does not include an air cushion vehicle.

**5 Subsection 5(1)**

Insert:

*analyst* means a person appointed under section 86DA.

**6 Subsection 5(1)**

Insert:

*animals, plants or goods* or *animals, plants or other goods*  
includes, to avoid doubt, any goods as defined by this subsection.

**7 Subsection 5(1)**

Insert:

*area in the vicinity of the Protected Zone* means an area adjacent to the Protected Zone that is declared by the Minister under subsection (8) to be an area in the vicinity of the Protected Zone.

**8 Subsection 5(1)**

Insert:

*Australia*, when used in a geographical sense:

- (a) includes the Territory of Ashmore and Cartier Islands; but
- (b) so long as this Act or a part of this Act does not extend to the Territory of Christmas Island, does not include that Territory or that part of that Territory, as the case may be.

**9 Subsection 5(1)**

Insert:

*ballast water* means water (including sediment that is or has been contained in water) used as ballast.

**10 Subsection 5(1)**

Insert:

*commander*, in relation to an aircraft, means the person in charge or command of the aircraft.

**11 Subsection 5(1)**

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Insert:

*Commonwealth*, when used in a geographical sense:

- (a) includes the Territory of Ashmore and Cartier Islands; but
- (b) so long as this Act or a part of this Act does not extend to the Territory of Christmas Island, does not include that Territory or that part of that Territory, as the case may be.

## **12 Subsection 5(1)**

Insert:

*compliance* with this Act has the meaning given by subsection 5(1A).

## **13 Subsection 5(1)**

Insert:

*compliance agreement* has the meaning given by section 66B.

## **14 Subsection 5(1)**

Insert:

*contravention* of this Act has the meaning given by subsection 5(1A).

## **15 Subsection 5(1)**

Insert:

*discharge*, in relation to a vessel or installation, includes any escape, spilling, leaking, pumping, emptying or other release, however caused, from the vessel or installation.

## **16 Subsection 5(1) (definition of *disease*, in relation to animals)**

Repeal the definition.

## **17 Subsection 5(1) (definition of *disease*, in relation to plants)**

Repeal the definition.

## **18 Subsection 5(1)**

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Insert:

*disease* includes a micro-organism, a disease agent, an infectious agent and a parasite.

## 19 Subsection 5(1)

Insert:

*document* includes a book and any record.

## 20 Subsection 5(1)

Insert:

*enter:*

- (a) in relation to a port that is a place at which aircraft can land, includes land at; and
- (b) in relation to a vessel or vehicle, includes go on board.

## 21 Subsection 5(1)

Insert:

*environment* includes all aspects of the surroundings of human beings, whether natural surroundings or surroundings created by human beings themselves, and whether affecting them as individuals or in social groupings.

## 22 Subsection 5(1)

Insert:

*evidential material* means any of the following things, including such a thing in electronic form:

- (a) a thing with respect to which an offence against this Act has been committed or is suspected, on reasonable grounds, to have been committed;
- (b) a thing that there are reasonable grounds for suspecting will afford evidence as to the commission of an offence against this Act;
- (c) a thing that there are reasonable grounds for suspecting is intended to be used for the purpose of committing an offence against this Act.

**23 Subsection 5(1) (at the end of the definition of *examine*)**

Add:

; and (d) in relation to a vessel, installation or premises—carry out tests on, or take samples from, the vessel, installation or premises.

**24 Subsection 5(1)**

Insert:

*executing officer*, for a warrant, means the person named in the warrant as being responsible for executing the warrant.

**25 Subsection 5(1)**

Insert:

*exposed* has the meaning given by section 5B.

**26 Subsection 5(1)**

Insert:

*give* includes grant.

**27 Subsection 5(1) (definition of *goods*)**

Repeal the definition, substitute:

*goods* includes:

- (a) an animal; and
  - (b) a plant (whether moveable or not); and
  - (c) any other article, substance or thing (including, but not limited to, any kind of moveable property);
- and, to avoid doubt, includes mail of any kind and ballast water.

**28 Subsection 5(1)**

Insert:

*grant* includes give.

**29 Subsection 5(1)**

Insert:

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*in quarantine*, in relation to a vessel or installation, has a meaning affected by section 37.

**30 Subsection 5(1) (definition of *landing place*)**

Omit “vessels engaged in navigation by air”, substitute “aircraft”.

**31 Subsection 5(1)**

Insert:

*level of quarantine risk* has the meaning given by section 5D.

**32 Subsection 5(1)**

Insert:

*magistrate* means any magistrate, whether remunerated by salary or not.

**33 Subsection 5(1) (paragraph (a) of the definition of *master*)**

Repeal the paragraph, substitute:

- (a) in relation to a vessel other than an aircraft—the person (other than a ship’s pilot) in charge or command of the vessel; and
- (aa) in relation to an aircraft—the commander of the aircraft; and

**34 Subsection 5(1)**

Insert:

*occupier* of premises:

- (a) means the person in charge of the premises; and
- (b) in Part VIA, includes the person apparently in charge of the premises.

**35 Subsection 5(1)**

Insert:

*offence against this Act* includes:

- (a) an offence against the regulations; and

- (b) an offence against section 6, 7 or 7A or subsection 86(1) of the *Crimes Act 1914* in relation to an offence against this Act or the regulations.

### **36 Subsection 5(1)**

Insert:

*officer assisting*, in relation to a warrant, means:

- (a) a quarantine officer who is assisting in executing the warrant;  
or
- (b) a person who is not a quarantine officer but has been authorised by the relevant executing officer to assist in executing the warrant.

### **37 Subsection 5(1)**

Insert:

*officer of Customs* has the same meaning as in the *Customs Act 1901*.

### **38 Subsection 5(1)**

Insert:

*on*, in relation to premises, includes in.

### **39 Subsection 5(1)**

Insert:

*operator* means:

- (a) in relation to a vessel (other than an aircraft) or installation that is in the course of, or has completed, a voyage:
  - (i) if a person is or was responsible for the operation of the vessel or installation during the voyage under a charter party or similar agreement—that person; or
  - (ii) otherwise—the owner of the vessel or installation; or
- (b) in relation to an aircraft that is in the course of, or has completed, a flight:
  - (i) if a person is or was responsible for the operation of the aircraft during the flight under an agreement entered

- into with the owner of the aircraft for the hire or charter of the aircraft—that person; or
- (ii) otherwise—the owner of the aircraft.

**40 Subsection 5(1)**

Insert:

*overseas aircraft* means an overseas vessel that is an aircraft.

**41 Subsection 5(1) (definition of *oversea vessel*)**

Repeal the definition.

**42 Subsection 5(1)**

Insert:

*overseas vessel* means a vessel other than:

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

and includes a vessel that is on a voyage from Australia to the Cocos Islands or from the Cocos Islands to Australia.

**43 Transitional provision relating to overseas vessels**

A reference to an oversea vessel in any Proclamation, order, determination, declaration or other document that was in force under the *Quarantine Act* 1908 immediately before the commencement of this Schedule is taken to be a reference to an overseas vessel.

**44 Subsection 5(1) (definition of *pest*)**

Repeal the definition, substitute:

*pest* includes any animal, or any plant, that is a pest.

**45 Subsection 5(1)**

Insert:

*police officer* means:

- (a) a member or special member of the Australian Federal Police; or

- (b) a member of the police force or police service of a State or Territory.

**46 Subsection 5(1) (definition of *port*)**

Repeal the definition, substitute:

*port* includes:

- (a) in relation to aircraft—any place at which an aircraft can land, whether a landing place or not; and
- (b) in relation to a vessel in respect of which a permission is in force under subsection 20AA(1)—the place to which the vessel may be brought under the permission.

**47 Subsection 5(1)**

Insert:

*premises* includes any place (whether enclosed or built on, or not) and, in particular, includes:

- (a) a building, wharf or other structure; and
- (b) a vessel; and
- (c) an Australian installation; and
- (d) a vehicle; and
- (e) a part of premises (including a part of any of the above).

**48 Subsection 5(1)**

Insert:

*proclaimed place* has the meaning given by section 12.

**49 Subsection 5(1) (definition of *quarantinable disease*)**

Omit “plague, cholera, yellow fever, typhus fever, or leprosy, or”.

**50 Saving of Proclamations**

A Proclamation made by the Governor-General for the purposes of the definition of *quarantinable disease* in subsection 5(1) of the *Quarantine Act 1908* that was in force immediately before the commencement of this Schedule continues in force and is taken to have been made for the purposes of that definition as amended by item 49.

**51 Subsection 5(1)**

Insert:

*quarantinable pest* means any pest declared by the Governor-General, by Proclamation, to be a quarantinable pest.

**52 Subsection 5(1)**

Insert:

*Secretary* means Secretary to the Department.

**53 Subsection 5(1)**

Insert:

*Special Quarantine Zone* means an area declared by the Minister under section 5A to be a Special Quarantine Zone.

**54 Subsection 5(1)**

Insert:

*thing* includes any goods.

**55 Subsection 5(1)**

Insert:

*treatment* means any process for controlling or eliminating a disease or pest and:

- (a) in relation to a vessel, installation or premises, includes examination, spraying, fumigation, disinfection, denaturing and cleaning; and
- (b) in relation to a person, includes examination, spraying, fumigation, disinfection and cleaning; and
- (c) in relation to an animal, includes examination, disinfection, denaturing, vaccination, testing and veterinary treatment; and
- (d) in relation to a plant or other goods, includes examination, spraying, fumigation, disinfection, denaturing, sorting, cleaning and repacking.

**56 Subsection 5(1)**

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Insert:

*under* this Act has the meaning given by subsection 5(1A).

## **57 Subsection 5(1) (definition of vessel)**

Repeal the definition, substitute:

*vessel* means:

- (a) a ship, boat or other description of vessel used in navigation by sea; or
  - (b) an aircraft; or
  - (c) an air cushion vehicle; or
  - (d) an off-shore industry mobile unit (being an overseas installation) that is bound for, or is at, a port;
- and includes a part of any of the above.

## **58 Subsection 5(1)**

Insert:

*voyage*, in relation to a vessel that is an aircraft, means flight.

## **59 After subsection 5(1)**

Insert:

- (1A) In this Act, unless the contrary intention appears, references to *under* this Act, *contravention* of this Act and *compliance* with this Act are taken to be references to under, contravention of, or compliance with, as the case may be:
- (a) this Act, the regulations, a Proclamation under this Act or a term of a compliance agreement; or
  - (b) an order, determination or declaration made, or an approval, direction, authorisation, permission or permit given, under this Act, the regulations, such a Proclamation or a term of such an agreement; or
  - (c) a condition, restriction or requirement imposed under any of the above.

## **60 After section 5**

Insert:

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### 5A Special Quarantine Zone

The Minister may, by notice published in the *Gazette*, declare an area described in the notice to be a Special Quarantine Zone for the purposes of this Act.

### 5B When person or thing is taken to have been exposed to another person or thing

- (1) For the purposes of this Act, a person or thing is taken to have been *exposed* to another person or to a thing if the first-mentioned person or thing has been, or is likely to have been:
- (a) in physical contact with; or
  - (b) in close proximity to; or
  - (c) exposed to contamination, infestation or infection from;
- the other person or thing or a person or thing to which the other person or thing is taken by this subsection to have been exposed.
- (2) In this section:
- thing* includes any vessel, installation, premises, vehicle or goods.

### 5C Power or requirement to do or cause a thing to be done

- (1) To avoid doubt:
- (a) subject to subsection (2), a person (the *first person*) who has power, or is required, under this Act to do a thing has power to cause another person to do the thing on behalf of the first person or can comply with the requirement by causing another person to do the thing on behalf of the first person, as the case may be; and
  - (b) a person who has power, or is required, under this Act to cause or direct a thing to be done has power to do the thing himself or herself or can comply with the requirement by doing the thing himself or herself, as the case may be.
- (2) The reference in paragraph (1)(a) to a power or requirement to do a thing does not include a reference to a power or requirement to give a direction.

## **5D Level of quarantine risk**

A reference in this Act to a *level of quarantine risk* is a reference to:

- (a) the probability of:
  - (i) a disease or pest being introduced, established or spread in Australia or the Cocos Islands; and
  - (ii) the disease or pest causing harm to human beings, animals, plants, other aspects of the environment, or economic activities; and
- (b) the probable extent of the harm.

## **5E References to aircraft and commander of an aircraft**

The express references in this Act to aircraft and the commander of an aircraft do not imply that references in this Act to vessels and the master of a vessel do not also include references to aircraft and the commander of an aircraft, respectively.

## **61 At the end of section 6**

Add:

- (2) Any references in provisions of this Act to the Cocos Islands do not imply that references to Australia or to the Commonwealth in other provisions of this Act do not also include references to the Cocos Islands.

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

## **62 Section 6AB**

Repeal the section, substitute:

## **6AB Extension of Act to Ashmore and Cartier Islands**

This Act extends to the Territory of Ashmore and Cartier Islands.

## **63 After section 6A**

Insert:

**6B Power to make, vary, suspend or revoke various instruments etc.**

(1) If:

- (a) a provision of this Act refers to a Proclamation, order, determination or declaration made, an approval, direction, authorisation, permission or permit given, or any other act done, by the Governor-General, the Minister or the Secretary or by a Director of Quarantine, Chief Quarantine Officer, quarantine officer or another person; and
- (b) there is no other provision of this Act expressly conferring power on the Governor-General, Minister, Secretary, Director of Quarantine, Chief Quarantine Officer, quarantine officer or other person to make such a Proclamation, order, determination or declaration, give such an approval, direction, authorisation, permission or permit or do such an act;

the Governor-General, Minister, Secretary, Director of Quarantine, Chief Quarantine Officer, quarantine officer or other person has power by this subsection to make such a Proclamation, order, determination or declaration, give such an approval, direction, authorisation, permission or permit or do such an act, as the case requires.

- (2) If the Governor-General, the Minister or the Secretary or a Director of Quarantine, Chief Quarantine Officer, quarantine officer or other person has power under a provision of this Act (including power under subsection (1)) to make a Proclamation, order, determination or declaration, give an approval, direction, authorisation, permission or permit or do any other act, the power may, unless the contrary intention appears, be exercised subject to conditions, restrictions or requirements.
- (3) Unless the contrary intention appears, any power conferred by this Act, by a Proclamation under this Act, by the regulations or by a compliance agreement, to make a Proclamation, order, determination or declaration or give an approval, direction, authorisation, permission or permit includes:
  - (a) the power to suspend (for a period of not more than one year or until the happening of an event occurring within such a period) a Proclamation, order, determination or declaration

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- so made or an approval, direction, authorisation, permission or permit so given and to revoke such a suspension; and
- (b) the power to vary or revoke a Proclamation, order, determination or declaration so made or an approval, direction, authorisation, permission or permit so given (including the power to vary or revoke at a time when the relevant instrument is suspended under paragraph (a)).
- (4) However, if a provision conferring a power to make a Proclamation, order, determination or declaration, or give an approval, direction, authorisation, permission or permit, allows a suspension, variation or revocation only in particular circumstances, on particular grounds, subject to particular conditions or after taking particular matters into account, subsection (3) only permits a suspension, variation or revocation under the power in those circumstances, on those grounds, subject to those conditions or after taking those matters into account.

### **6C Provisions relating to conditions, restrictions or requirements**

If a provision of this Act allows, or authorises a person to allow, the importation of any thing, or provides for the making of a Proclamation, order, determination or declaration, the giving of an approval, direction, authorisation, permission or permit, or the doing of any other act, subject to a condition, restriction or requirement, then, unless the contrary intention appears:

- (a) the provision extends to the imposition of such a condition, restriction or requirement either before or after the importation of the thing, or at or after the time of the making of the Proclamation, order, determination or declaration, the giving of the approval, direction, authorisation, permission or permit or the doing of the other act, as the case may be; and
- (b) any reference in the provision to compliance with such a condition, restriction or requirement is a reference to compliance either before or after the importation of the thing, or at or after the time of the making of the Proclamation, order, determination or declaration, the giving of the approval, direction, authorisation, permission or permit or the doing of the other act, as the case may be.

**64 Subsections 8A(2) and (3)**

Repeal the subsections, substitute:

- (2) The Minister may, by writing, determine that there are to be one or more Chief Quarantine Officers (Human Quarantine) for a division or divisions of human quarantine specified in the determination.
- (3) Each Chief Quarantine Officer (Human Quarantine) is to perform his or her functions and exercise his or her powers under, and subject to the directions of, the Director of Human Quarantine

**65 Saving of determinations**

A determination made under subsection 8A(2) of the *Quarantine Act 1908* that was in force immediately before the commencement of this Schedule continues in force as if it had been made under subsection 8A(2) substituted by item 64.

**66 Subsection 8A(6)**

Repeal the subsection, substitute:

- (6) Each quarantine officer (human quarantine) is to perform functions and may exercise powers, for a division of quarantine for which he or she is appointed, under, and subject to the directions of:
  - (a) the Chief Quarantine Officer (Human Quarantine) for the division; or
  - (b) if there is no such Chief Quarantine Officer (Human Quarantine)—the Director of Human Quarantine.

**67 Subsection 8B(2)**

Repeal the subsection, substitute:

- (2) The Minister may, by writing, determine that there are to be Chief Quarantine Officers (Animals) or Chief Quarantine Officers (Plants) for a division or divisions of animal quarantine or plant quarantine, as the case may be, specified in the determination.

**68 Saving of determinations**

A determination made under subsection 8B(2) of the *Quarantine Act 1908* that was in force immediately before the commencement of this Schedule continues in force as if it had been made under subsection 8B(2) substituted by item 67.

**69 Subsection 8B(3)**

Omit “All”, substitute “Any”.

**70 Subsection 8B(6)**

Repeal the subsection, substitute:

- (6) Each quarantine officer (animals) or quarantine officer (plants) is to perform functions and may exercise powers, for a division of quarantine for which he or she is appointed, under, and subject to the directions of:
  - (a) the Chief Quarantine Officer for the division; or
  - (b) if there is no such Chief Quarantine Officer—the Director of Animal and Plant Quarantine.

**71 Subsection 9(1)**

Omit “the Chief”, substitute “any Chief”.

**72 Subsection 9(3)**

Repeal the subsection, substitute:

- (3) A quarantine officer (human quarantine) is to be appointed to a division or divisions of human quarantine specified in the instrument of appointment.

**73 Saving of appointments**

An appointment of a quarantine officer (human quarantine) made under section 9 of the *Quarantine Act 1908* that was in force immediately before the commencement of this Schedule continues in force as if it had been made under that section as amended by this Schedule.

**74 Subsection 9AA(2)**

Repeal the subsection, substitute:

- (2) The Minister may, by writing, appoint Chief Quarantine Officers (Animals) or Chief Quarantine Officers (Plants).

**75 Subsection 9AA(4)**

Omit “quarantine for which a Chief Quarantine Officer (Animals) or a Chief Quarantine Officer (Plants), as the case may be, is appointed”, substitute “animal quarantine or plant quarantine, as the case may be, specified in the instrument of appointment”.

**76 Saving of appointments**

An appointment of a quarantine officer (animals) or a quarantine officer (plants) made under section 9AA of the *Quarantine Act 1908* that was in force immediately before the commencement of this Schedule continues in force as if it had been made under that section as amended by this Schedule.

**77 Subsection 9A(1)**

Omit “The Director”, substitute “A Director”.

**78 Subsection 9A(1A)**

Omit “the Director”, substitute “a Director”.

**79 Subsection 9A(1B)**

Repeal the subsection, substitute:

- (1B) A person appointed as a temporary quarantine officer under subsection (1) or authorised to act as a temporary quarantine officer under subsection (1A):
- (a) is to be appointed to, or authorised to act in, a division or divisions of quarantine specified in the instrument of appointment; and
  - (b) is, in the performance of his or her functions and in the exercise of his or her powers in respect of a division of quarantine to which he or she is appointed or in which he or she is authorised to act, subject to the directions of:
    - (i) the Chief Quarantine Officer for the division; or
    - (ii) if there is no such Chief Quarantine Officer—the relevant Director of Quarantine.

**80 Subsection 9A(4)**

Repeal the subsection.

**81 Saving of appointments and authorities**

An appointment of a person as, or an authority of a person to act as, a temporary quarantine officer made under section 9A of the *Quarantine Act 1908* that was in force immediately before the commencement of this Schedule continues in force as if it had been made under that section as amended by this Schedule.

**82 Sections 10, 10A and 10B**

Repeal the sections, substitute:

**10 Delegation by Minister**

The Minister may, by signed writing, delegate to the Secretary, a Director of Quarantine or an officer all or any of his or her powers under this Act.

**10A Delegation by Secretary**

The Secretary may, by signed writing, delegate to a Director of Quarantine or an officer all or any of his or her powers under this Act.

**10B Delegation by Director of Quarantine**

A Director of Quarantine may, by signed writing, delegate to an officer all or any of his or her powers under this Act.

**83 Saving of delegations**

- (1) A delegation given by the Minister under section 10 of the *Quarantine Act 1908* that was in force immediately before the commencement of this Schedule continues in force and is taken to have been given under section 10 substituted by item 82.
- (2) A delegation given by a Director of Quarantine under section 10B of the *Quarantine Act 1908* that was in force immediately before the

commencement of this Schedule continues in force and is taken to have been given under section 10B substituted by item 82.

## **84 Section 11**

Repeal the section, substitute:

### **11 Arrangements with State and Territory Governments to aid in carrying out this Act**

- (1) The Governor-General may enter into an arrangement with the Governor of any State or the Administrator of the Northern Territory with respect to all or any of the following matters:
  - (a) the use of any State or Territory quarantine station or other place in the State or Territory as a quarantine station under this Act, and the control and management of any such quarantine station;
  - (b) any matters necessary or convenient to be arranged in order to enable the Commonwealth quarantine authorities and the State or Territory health or other authorities to act in aid of each other in preventing the introduction, establishment or spread of diseases or pests.
- (2) The Prime Minister may enter into an arrangement with the Chief Minister of the Australian Capital Territory with respect to all or any of the following matters:
  - (a) the use of any Australian Capital Territory quarantine station or other place in the Australian Capital Territory as a quarantine station under this Act, and the control and management of any such quarantine station;
  - (b) any matters necessary or convenient to be arranged in order to enable the Commonwealth quarantine authorities and the Australian Capital Territory health or other authorities to act in aid of each other in preventing the introduction, establishment or spread of diseases or pests.

## **85 Saving of arrangements**

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An arrangement entered into under section 11 of the *Quarantine Act 1908* that was in force immediately before the commencement of this Schedule continues in force and is taken to have been entered into under subsection 11(1) substituted by item 84.

## **86 After Part II**

Insert:

### **Part IIA—Proposed decisions affecting the environment**

#### **11A Definitions**

In this Part:

***Environment Minister*** means the Minister administering the *Environment Protection and Biodiversity Conservation Act 1999*.

#### **11B Decisions under this Act not to be regarded as actions for the purposes of the Environment Protection and Biodiversity Conservation Act**

To avoid doubt, a decision to do, or not to do, anything under this Act is taken to be a decision to grant a governmental authorisation for the purposes of subsection 524(2) of the *Environment Protection and Biodiversity Conservation Act 1999*.

#### **11C Requirement to seek from Environment Minister advice about proposed decision involving significant risk of environmental harm**

- (1) Before making a decision under this Act, the implementation of which is likely to result in a significant risk of harm to the environment, a Director of Quarantine must comply with the requirements of this section.
- (2) The Director of Quarantine must give written notice to the Environment Minister:

- (a) stating that consideration is to be given to the making of such a decision; and
  - (b) requesting the Environment Minister to give advice to the Director as to the adequacy of the risk assessment process that is proposed to be followed in assessing the risk of harm to the environment.
- (3) After preliminary findings have been made as a result of the risk assessment process, the Director of Quarantine must give written notice to the Environment Minister requesting the Environment Minister to give advice to the Director as to the adequacy of the preliminary findings in relation to the protection of the environment.

#### **11D Provision of advice by Environment Minister**

- (1) If a Director of Quarantine gives to the Environment Minister a notice in accordance with section 11C requesting advice as to a matter, the Environment Minister may give written advice to the Director about that matter.
- (2) Any such advice is to be given within 28 days after the notice was given.

#### **11E Director of Quarantine to take advice into account**

If the Director of Quarantine receives any advice from the Environment Minister within 28 days after the notice requesting the advice was given to the Environment Minister in accordance with section 11C, the Director must:

- (a) ensure that the advice is taken into account in making the relevant decision; and
- (b) inform the Environment Minister in writing as to how the advice was taken into account.

#### **87 Section 12**

After “quarantinable disease” (wherever occurring), insert “or quarantinable pest”.

#### **88 Section 12A**

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Repeal the section, substitute:

## **12A Minister may take quarantine measures in an emergency**

- (1) If, in the opinion of the Minister, an emergency has arisen that requires the taking of action not otherwise authorised under this Act, the Minister may take such quarantine measures, or measures incidental to quarantine, and give such directions, as he or she thinks necessary or desirable for the diagnosis, for the prevention or control of the introduction, establishment or spread, for the eradication, or for the treatment, of any disease or pest.
- (2) A person is guilty of an offence if:
  - (a) a direction is given to the person under subsection (1); and
  - (b) the person fails to comply with the direction.

Maximum penalty: Imprisonment for 10 years.

## **89 Paragraphs 13(1)(a) and (aaa)**

Omit “oversea” (wherever occurring), substitute “overseas”.

## **90 Paragraph 13(1)(aa)**

Omit “vessels engaged in navigation by air”, substitute “aircraft”.

## **91 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 this Schedule continues in force as if it had been made under that paragraph as amended by this Schedule and as if references in the Proclamation to vessels engaged in navigation by air were references to aircraft.

## **92 Paragraph 13(1)(b)**

Repeal the paragraph, substitute:

- (b) declare any ports in Australia or the Cocos Islands to be ports where imported animals, plants or other goods, or imported animals, plants or other goods of a particular kind or description or having a particular use, may be landed;

## **93 Saving of Proclamations**

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A Proclamation made under paragraph 13(1)(b) of the *Quarantine Act 1908* that was in force immediately before the commencement of this Schedule continues in force as if it had been made under paragraph 13(1)(b) substituted by item 92.

**94 After paragraph 13(1)(c)**

Insert:

- (ca) declare a disease or pest to be a quarantinable disease or quarantinable pest, as the case may be;

**95 Paragraph 13(1)(d)**

Repeal the paragraph, substitute:

- (d) prohibit the introduction or importation into Australia, or prohibit the introduction or importation into the Cocos Islands, of any disease or pest or any substance, article or thing containing, or likely to contain, any disease or pest;

**96 Saving of Proclamations**

A Proclamation made under paragraph 13(1)(d) of the *Quarantine Act 1908* that was in force immediately before the commencement of this Schedule continues in force as if it had been made under paragraph 13(1)(d) substituted by item 95.

**97 Paragraph 13(1)(e)**

Repeal the paragraph, substitute:

- (e) prohibit the importation into Australia, or prohibit the importation into the Cocos Islands, of any articles or things likely, in his or her opinion, to introduce, establish or spread any disease or pest;

**98 Saving of Proclamations**

A Proclamation made under paragraph 13(1)(e) of the *Quarantine Act 1908* that was in force immediately before the commencement of this Schedule continues in force as if it had been made under paragraph 13(1)(e) substituted by item 97.

**99 Paragraph 13(1)(fa)**

Repeal the paragraph, substitute:

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

**100 After paragraph 13(1)(g)**

Insert:

- (ga) prohibit the removal of any animals, plants or other goods from Australia or a part of Australia to the Cocos Islands or a part of the Cocos Islands or from the Cocos Islands or a part of the Cocos Islands to Australia or a part of Australia;

**101 Paragraph 13(1)(h)**

Repeal the paragraph, substitute:

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

**102 Paragraph 13(1)(i)**

Repeal the paragraph, substitute:

- (i) declare that any vessel, people, animals, plants or other goods in any quarantine area, or in any part of the Commonwealth or of the Cocos Islands in which a disease or pest exists, or is suspected to exist, are to be subject to quarantine.

**103 Subsections 13(1A) and (1B)**

Omit “oversea” (wherever occurring), substitute “overseas”.

**104 Subsection 13(2)**

Omit “or with limitations as to place and subject matter, and”, substitute “or as otherwise provided by the instrument authorising the prohibition, including prohibition”.

**105 Subsection 13(2A)**

Repeal the subsection, substitute:

- (2A) A Proclamation under subsection (1):
- (a) prohibiting the introduction into Australia or the Cocos Islands of any thing; or

- (b) prohibiting the importation into Australia or the Cocos Islands of any thing; or
- (c) prohibiting the bringing into a port or other place in Australia or the Cocos Islands of any thing; or
- (d) prohibiting the removal of any thing:
  - (i) from a part of Australia to another part of Australia; or
  - (ii) from a part of the Cocos Islands to another part of the Cocos Islands; or
  - (iii) from Australia or a part of Australia to the Cocos Islands or a part of the Cocos Islands or from the Cocos Islands or a part of the Cocos Islands to Australia or a part of Australia;

may provide that the introduction, importation, bringing or removal of the thing is prohibited unless a permit to introduce, import, bring or remove the thing is granted by a Director of Quarantine.

- (2AA) A Director of Quarantine may, for the purposes of subsection (2A), grant a permit that relates to a specified act, or a specified class of acts, in relation to a specified thing or a specified class of things.

**106 Subsection 13(2B)**

Omit “importation”, substitute “introduction, importation, bringing”.

**107 Paragraph 13(2C)(a)**

Repeal the paragraph, substitute:

- (a) that the level of quarantine risk in respect of the introduction, importation, bringing or removal of the thing or class of things to which the permit relates has altered; or

**108 Subsection 13(3)**

Repeal the subsection, substitute:

- (3) The powers conferred on the Governor-General by this section, in relation to the matters specified in paragraphs (1)(g), (ga), (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 only if the Governor-General is satisfied that the exercise of the powers is necessary for the

purpose of preventing the introduction, establishment or spread of a disease or pest.

**109 Subsections 13(4) and (5)**

Omit “articles, animals or plants” (wherever occurring), substitute “animals, plants or other goods”.

**110 At the end of section 13**

Add:

- (6) If there is in force a Proclamation (the *relevant Proclamation*) under subsection (1) (whether made before or after the commencement of this subsection) prohibiting:
- (a) the bringing into a port or other place in Australia of any animals, plants or other goods; or
  - (b) the removal of any animals, plants or other goods:
    - (i) from a part of Australia to another part of Australia; or
    - (ii) from a part of the Cocos Islands to another part of the Cocos Islands; or
    - (iii) from Australia or a part of Australia to the Cocos Islands or a part of the Cocos Islands; or
    - (iv) from the Cocos Islands or a part of the Cocos Islands to Australia or a part of Australia;
- the Governor-General may, by Proclamation (the *exempting Proclamation*), either generally or subject to such conditions or restrictions as are specified in the exempting Proclamation, exempt from the operation of the relevant Proclamation animals, plants or other goods of a kind specified in the exempting Proclamation, being animals, plants or other goods that:
- (c) are brought or removed, on board a Protected Zone vessel, from a part of Australia that:
    - (i) is in the Protected Zone; or
    - (ii) is in an area in the vicinity of the Protected Zone; or
    - (iii) is in a Special Quarantine Zone; and
  - (d) are owned by, or are under the control of, a traditional inhabitant who is on board that vessel.

- (7) A Proclamation made under subsection (1) may, either generally or subject to such conditions or restrictions as are specified in the Proclamation, exempt from the operation of the Proclamation any animals, plants or other goods specified in the Proclamation, being animals, plants or other goods in respect of which an exemption may be granted under subsection (6).

**111 Paragraph 14(d)**

Omit “, or goods”, substitute “or goods or any classes of persons, animals, plants or other goods”.

**112 Saving of exemptions**

If:

- (a) an exemption was in force under section 14 or 14A of the *Quarantine Act 1908* immediately before the commencement of this Schedule in respect of a provision of that Act as in force at that time; and
- (b) the provision is repealed by this Schedule and a corresponding provision is inserted in the *Quarantine Act 1908* by this Schedule;

the exemption continues in force as if it had been granted under that section on that commencement in respect of the corresponding provision.

**113 Section 15**

Repeal the section, substitute:

**15 Vessels may be directed to carry disinfecting equipment**

- (1) A Director of Quarantine may give to the operator or master of:
- (a) a vessel going from one State or part of the Commonwealth to another State or part of the Commonwealth; or
  - (b) a vessel carrying passengers and trading regularly with the Commonwealth; or
  - (c) a vessel coming from, or which has called at, a proclaimed place;
- a direction to cause to be carried on the vessel, for a period specified in the direction, such prophylactic agents, efficient
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disinfecting apparatus or appliances, and disinfectants, as are so specified.

- (2) A person is guilty of an offence if:
- (a) a Director of Quarantine gives a direction to the person under subsection (1); and
  - (b) the person fails to comply with the direction.

Maximum penalty: 50 penalty units.

- (3) An offence against subsection (2) is an offence of strict liability.

#### **114 Orders taken to be directions**

If an order made by the Minister under subsection 15(1) of the *Quarantine Act 1908* (the ***repealed subsection***) was in force immediately before the commencement of this Schedule:

- (a) the order continues in force as if it were a direction given by a Director of Quarantine under subsection 15(1) substituted by item 113; and
- (b) any prophylactic agents that were prescribed, or disinfecting apparatus or appliances, or disinfectants, that were approved by the Minister, at that time for the purposes of the repealed subsection are taken to be specified in the direction; and
- (c) the period that was prescribed at that time for the purposes of the repealed subsection is taken to be specified in the direction.

#### **115 Section 15A**

Repeal the section.

#### **116 Subsection 16AC(2) (including the penalty)**

Repeal the subsection and penalty, substitute:

- (2) If:
- (a) a person imports goods into Australia or the Cocos Islands; and
  - (b) notice of the proposed importation of the goods was not given under subsection (1);

the person must, within the period applicable under subsection (2A), cause notice of the importation to be given in accordance with this section.

(2A) The period within which notice of the importation of goods is to be given by a person under subsection (2) is 35 days after:

- (a) the day on which the person or an agent of the person receives notice of the landing of the goods; or
- (b) if the person or an agent of the person does not receive notice of the landing of the goods before the person or agent receives the goods—the day on which the goods are so received.

(2B) A person is guilty of an offence if:

- (a) the person is required by subsection (2) to cause a notice of the importation of goods to be given in accordance with this section; and
- (b) the person fails to comply with the requirement.

Maximum penalty: Imprisonment for 2 years.

#### **117 Subparagraph 16AC(5)(a)(ii)**

Omit “within the meaning of the *Customs Act 1901*”.

#### **118 Subsection 16AC(6)**

Repeal the subsection, substitute:

(5A) Without limiting subsection (5), the regulations may provide that the doing of something specified in the regulations is, or is in circumstances or subject to conditions so specified, taken to constitute the giving of a notice under subsection (1) or (2).

(6) If a notice under this section:

- (a) is given to an officer of Customs; or
- (b) is given by the lodging of an entry under the *Customs Act 1901* as mentioned in paragraph (5)(b); or
- (c) is taken to be given by the doing of something specified in regulations under subsection (5A);

a person to whom section 16 of the *Customs Administration Act 1985* applies may, despite that section, give the notice, particulars

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of the entry, or particulars of the thing the doing of which is taken to constitute the giving of the notice, as the case may be, to a quarantine officer.

### **119 Saving of regulations**

A regulation purporting to make a provision of a kind mentioned in subsection 16AC(5A) substituted by item 118 that purported to be in force immediately before the commencement of this Schedule is as valid as it would have been if it had been made after that commencement.

### **120 Subsection 16AD(4) (including the penalty)**

Repeal the subsection and penalty, substitute:

- (4) A person is guilty of an offence if:
- (a) a notice is given to the person under subsection (1); and
  - (b) the person fails to comply with the notice.

Maximum penalty: 120 penalty units.

Note: This section is subject to the privilege against self incrimination (see subsection 79A(3)).

### **121 Section 16AE (penalty)**

Repeal the penalty, substitute:

Maximum penalty: Imprisonment for 2 years.

### **122 Subsection 16AF(2) (including the penalty)**

Repeal the subsection and penalty, substitute:

- (2) A notice given to a person under subsection (1) may require the person to do a specified thing for the purpose of giving effect to the decision.
- (3) A person is guilty of an offence if:
- (a) a notice given to the person under subsection (1) requires the person to do a specified thing; and
  - (b) the person fails to comply with the requirement.

Maximum penalty: Imprisonment for 5 years.

**123 At the end of Part III**

Add:

**16AH Vessel arriving illegally at a place other than a port**

If a vessel that is at a place in Australia other than a port arrived at the place (whether before or after the commencement of this section) in contravention of this Act, an officer may perform any functions or exercise any powers under this Act in relation to the vessel, its operator, master, crew or passengers, or any goods on it, that he or she could have performed or exercised if the vessel were at a port.

**124 Subsection 17(1)**

Omit “Every” (wherever occurring), substitute “every”.

**125 Paragraphs 17(1)(a) and (b)**

Omit “oversea”, substitute “overseas”.

**126 Paragraphs 17(1)(b) and (2)(b)**

Omit “or disease which there is reason to believe or suspect to be a quarantinable disease”, substitute “or quarantinable pest, or disease or pest that there is reason to believe or suspect to be a quarantinable disease or a quarantinable pest,”.

**127 Paragraphs 17(1)(b) and 17(2)(b)**

Omit “and” (last occurring).

**128 Subsection 18(1)**

Omit “Every” (wherever occurring), substitute “every”.

**129 Paragraphs 18(1)(a) and (2)(a)**

Omit “oversea”, substitute “overseas”.

**130 Paragraph 18(1)(b)**

After “disease”, insert “or quarantinable pest”.

**131 Paragraph 18(1)(d)**

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Omit “and”.

**132 At the end of subsection 18(1)**

Add:

; (f) every person who is ordered into quarantine by a quarantine officer.

**133 Subsection 18(2)**

Omit “All” (wherever occurring), substitute “all”.

**134 Paragraph 18(2)(b)**

After “disease”, insert “or quarantinable pest”.

**135 Paragraph 18(2)(c)**

After “disease”, insert “or quarantinable pest”.

**136 Paragraph 18(2)(d)**

Omit “and”.

**137 At the end of subsection 18(2)**

Add:

; (f) any goods that are ordered into quarantine by a quarantine officer.

**138 Sections 20 and 20A**

Repeal the sections, substitute:

**20 Vessels to enter only first ports of entry unless permission given**

- (1) The master of an overseas vessel arriving in Australia or the Cocos Islands is guilty of an offence if:
  - (a) the master permits the vessel to enter a place in Australia or the Cocos Islands other than a port declared to be a first port of entry or a first Cocos Islands port of entry, as the case may be; and
  - (b) the entry was made without the permission of the Minister under section 20AA.

Maximum penalty: Imprisonment for 5 years.

- (2) The master of an overseas vessel arriving in Australia or the Cocos Islands is guilty of an offence if the master permits the vessel to be:
- (a) beached in Australia or the Cocos Islands; or
  - (b) moored, anchored or otherwise secured in waters on the landward side of the baseline of the territorial sea of Australia or of the Cocos Islands;
- otherwise than at a port.

Maximum penalty: Imprisonment for 5 years.

Note: The master will not be guilty of an offence if the prohibited conduct was due to sudden or extraordinary emergency (see section 10.3 of the *Criminal Code*).

## **20A Overseas aircraft to land only at landing places unless permission given**

The commander of an overseas aircraft is guilty of an offence if:

- (a) the commander permits the aircraft to land in Australia or the Cocos Islands at a place other than a landing place; and
- (b) the landing was made without the permission of the Minister given under section 20AA.

Maximum penalty: Imprisonment for 5 years.

Note: The commander will not be guilty of an offence if the landing was due to sudden or extraordinary emergency (see section 10.3 of the *Criminal Code*).

## **139 Section 20AA**

Omit “oversea”, substitute “overseas”.

## **140 At the end of section 20AA**

Add:

- (2) A person is guilty of an offence if:
- (a) the person is, under subsection (1), given a permission that is subject to a condition; and
  - (b) the condition is contravened; and

- (c) the person is reckless as to whether or not the condition is contravened.

Maximum penalty: Imprisonment for 5 years.

## **141 Sections 20B and 20C**

Repeal the sections, substitute:

### **20B Prohibition of entry by air from proclaimed places**

#### *Proclamation of place*

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

#### *Offences by commander and operator of aircraft*

- (2) The commander and the operator of any aircraft that enters Australia or the Cocos Islands from or through a place declared under subsection (1) to be a place in relation to which this section applies in respect of Australia or the Cocos Islands, as the case may be, are each guilty of an offence.

Maximum penalty: Imprisonment for 10 years.

#### *Proclamation of conditions of entry*

- (3) The Governor-General may, by Proclamation, declare that a person must not, so long as the Proclamation remains in force, enter Australia or the Cocos Islands by an aircraft from any place outside Australia or the Cocos Islands, as the case may be, specified in the Proclamation unless the person has complied with the conditions stated in the Proclamation.

#### *Conditions that may be proclaimed*

- (4) The conditions stated in a Proclamation under subsection (3) are such conditions as the Governor-General thinks necessary or

desirable for avoiding the possibility of the entry into Australia or the Cocos Islands of people suffering from, or capable of communicating, any disease.

*Offence by person entering in reckless contravention of condition*

- (5) A person is guilty of an offence if:
- (a) the person enters Australia or the Cocos Islands in contravention of a condition stated in a Proclamation made under subsection (3); and
  - (b) the person is reckless as to whether or not the condition is contravened.

Maximum penalty: Imprisonment for 10 years.

*Meaning of entry from place outside Australia or Cocos Islands*

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

**20C Aircraft landing at places other than landing places**

*Aircraft etc. may be ordered into quarantine*

- (1) If an aircraft that is subject to quarantine makes a landing at any place in Australia or the Cocos Islands that is not a landing place, the aircraft and any person, animal, plant or other goods on board are taken, for the purposes of this Act, to be ordered into quarantine.

*Direction for dealing with aircraft etc.*

- (2) A Director of Quarantine may give directions as to how an aircraft, a person, an animal, a plant or other goods referred to in subsection (1) are to be dealt with.

*To whom directions may be given*

- (3) A direction under subsection (2) may be given, as appropriate, to:
- (a) the operator or commander of the aircraft; or
  - (b) any person who is on board the aircraft or was on board it when it landed; or
  - (c) the importer of, or any person in control of, the animal, plant or other goods.

*Exception for aircraft landing with permission*

- (4) Subsection (1) does not apply in relation to an aircraft that lands at a place other than a landing place in accordance with the permission of the Minister given under section 20AA.

*Exception not to apply if condition of permission is contravened*

- (5) However, subsection (1) is not precluded by subsection (4) from applying in relation to the aircraft if:
- (a) the permission is subject to a condition; and
  - (b) the condition is contravened.

*Offence for failing to comply with direction*

- (6) A person is guilty of an offence if:
- (a) a direction is given to the person under subsection (2); and
  - (b) the person fails to comply with the direction.

Maximum penalty: Imprisonment for 5 years.

**20D Animals, plants or other goods to be landed at declared port**

*Goods may only be landed at declared port*

- (1) Except as provided by subsection (2), imported animals, plants or other goods must not be landed at a place in Australia or the Cocos Islands other than a port declared by Proclamation to be a port at which they may be landed.

*Exception for goods landed with permission*

- (2) Imported animals, plants or other goods may be landed at a place in Australia or the Cocos Islands that is not a port declared by Proclamation to be a port at which they may be landed if:
- (a) they are landed from an overseas vessel; and
  - (b) a Director of Quarantine has, upon application made by the master, owner or agent of the vessel, given the applicant written permission for them to be landed at the place; and
  - (c) where the permission is subject to a condition—the condition is complied with.

*Offence for landing goods without permission*

- (3) A person is guilty of an offence if:
- (a) the person lands any imported animals, plants or other goods in a place in Australia or the Cocos Islands that is not a port declared by Proclamation to be a port at which they may be landed; and
  - (b) no permission is in force under subsection (2) for them to be landed at the place

Maximum penalty: Imprisonment for 10 years.

*Offence for contravening condition of permission*

- (4) A person is guilty of an offence if:
- (a) the person lands any imported animals, plants or other goods at a place in Australia or the Cocos Islands that is not a port declared by Proclamation to be a port at which they may be landed; and
  - (b) a permission is in force under subsection (2) for them to be landed at the place; and
  - (c) the permission is subject to a condition that is to be complied with after they are landed; and
  - (d) the condition is contravened; and
  - (e) the person is reckless as to whether or not the condition is contravened.

Maximum penalty: Imprisonment for 10 years.

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**142 Subsection 21(1) (including the penalty)**

Repeal the subsection and penalty, substitute:

- (1) The master of a vessel (other than an aircraft) subject to quarantine is guilty of an offence if he or she:
- (a) fails to display the quarantine signal on the vessel before it comes within 3 nautical miles of any port or within 500 metres of an Australian installation; and
  - (b) fails to keep the quarantine signal displayed on the vessel while it enters, or is in, any port or quarantine station or is at an Australian installation.

Maximum penalty: 50 penalty units.

- (1A) The commander of an aircraft subject to quarantine is guilty of an offence if he or she:
- (a) fails to display and keep displayed the prescribed signal; and
  - (b) on arrival at the first landing place in Australia or the Cocos Islands, or on arrival at an Australian installation and at each landing place afterwards called at, fails to cause the aircraft to come to a stop as near as possible to a spot marked by the prescribed signal on the landing place.

Maximum penalty: 50 penalty units.

**143 Saving of regulations**

Any regulation prescribing a signal for the purposes of paragraph 21(1)(c) of the *Quarantine Act 1908* that was in force immediately before the commencement of this Schedule continues in force as if it prescribed that signal for the purposes of subsection 21(1A) inserted by item 142.

**144 Subsection 21(2) (penalty)**

Repeal the penalty, substitute:

Maximum penalty: 50 penalty units.

**145 At the end of section 21**

Add:

(3) An offence against this section is an offence of strict liability.

**146 At the end of paragraph 22(1)(c)**

Add “or a quarantinable pest”.

**147 At the end of subsection 22(1)**

Add:

Maximum penalty: Imprisonment for 5 years.

**148 Subsection 22(1A)**

Repeal the subsection.

**149 Subsection 22(2) (penalty)**

Repeal the penalty, substitute:

Maximum penalty: Imprisonment for 5 years.

**150 At the end of section 22**

Add:

(3) A notice under subsection (2) is to be in accordance with a form approved by a Director of Quarantine.

(4) In this section:

*vessel* includes:

- (a) an Australian resources installation, or another resources installation that is in Australian waters for the purpose of becoming attached to the Australian seabed; and
- (b) an Australian sea installation, or another sea installation that is in Australian waters for the purpose of becoming installed in an adjacent area or in a coastal area.

**151 Subsection 24(1) (penalty)**

Repeal the penalty, substitute:

Maximum penalty: 50 penalty units.

**152 Subsection 24(2) (penalty)**

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Repeal the penalty, substitute:

Maximum penalty: 50 penalty units.

**153 At the end of section 24**

Add:

(3) An offence against this section is an offence of strict liability.

**154 Section 25 (penalty)**

Repeal the penalty, substitute:

Maximum penalty: Imprisonment for 1 year.

**155 Section 25A (penalty)**

Repeal the penalty, substitute:

Maximum penalty: Imprisonment for 2 years.

**156 Subsection 26(1) (penalty)**

Repeal the penalty, substitute:

Maximum penalty: Imprisonment for 5 years.

**157 Section 26A**

Omit “vessel subject to quarantine (not being a vessel used in navigation by air)”, substitute “vessel (other than an aircraft) that is subject to quarantine”.

**158 Section 26A (penalty)**

Repeal the penalty, substitute:

Maximum penalty: Imprisonment for 5 years.

**159 Sections 27, 28 and 29**

Repeal the sections, substitute:

**27A Pre-arrival and pre-departure reports by certain vessels (other than aircraft) and installations**

*Vessels from which reports are required*

- (1) This section applies to the master of:
- (a) an overseas vessel (other than an aircraft) that is intended to arrive at a place in Australia or the Cocos Islands; or
  - (b) an overseas installation that:
    - (i) is intended to arrive at a place in Australia or the Cocos Islands from a place outside Australia and the Cocos Islands; or
    - (ii) is intended to arrive at a place in the Cocos Islands from a place in Australia; or
  - (c) a vessel (other than an overseas vessel or an aircraft), or an installation (other than an overseas installation), that is intended to arrive at a place in Australia from a place in the Cocos Islands; or
  - (d) a vessel (other than an overseas vessel, an aircraft or a prescribed vessel) that is intended to arrive at a place in Australia (other than a place in a Special Quarantine Zone or the Protected Zone) or the Cocos Islands from a place in any of those Zones.

*Quarantine officer to whom pre-arrival report to be sent*

- (2) The master of the vessel or installation must cause the prescribed information to be given, in a form approved by a Director of Quarantine, in the prescribed manner and during the prescribed period, to a quarantine officer:
- (a) in respect of a vessel or installation that is intended to arrive at a place in Australia:
    - (i) if that place is a first port of entry for overseas vessels—at that port; or
    - (ii) otherwise—at a port that is declared by Proclamation to be a first port of entry for overseas vessels; or
  - (b) in respect of a vessel or installation that is intended to arrive at a place in the Cocos Islands—at that place.

*Action to be taken if report afterwards found to be incomplete or incorrect*

- (3) If, after any of the prescribed information is given to a quarantine officer under subsection (2), the master or operator of the vessel or installation becomes aware that the information is incomplete or incorrect, the master or operator, as the case may be, must cause the additional or correct information to be given to a quarantine officer as soon as practicable.

*Pre-departure report*

- (4) If:
- (a) after the period within which the master of the vessel or installation was required to cause the prescribed information to be given to a quarantine officer under subsection (2); and
  - (b) before the vessel or installation departs from its last port in Australia or the Cocos Islands in the course of the relevant voyage;

any people on the vessel or installation are found to be suffering from a disease prescribed for the purposes of this section, the master must immediately cause particulars of the disease, and the number of people suffering from it, to be given to a quarantine officer.

*Failure to give information*

- (5) A person is guilty of an offence if:
- (a) a requirement of this section applies to the person; and
  - (b) the person fails to comply with the requirement.

Maximum penalty: Imprisonment for 2 years.

Note: Subsection (5) is not subject to the privilege against self incrimination but a use derivative-use indemnity applies (see subsections 79A(1) and (2)).

*Knowingly giving false or misleading information*

- (6) A person is guilty of an offence if:
- (a) the person gives information, or causes information to be given, to a quarantine officer under a requirement made by

this section (whether the requirement is made of that person or of another person); and

- (b) the information is false or misleading in a material particular; and
- (c) the person knows that the information is false or misleading in that particular.

Maximum penalty: Imprisonment for one year.

*Negligently giving false or misleading information*

- (7) A person is guilty of an offence if:

- (a) the person gives information, or causes information to be given, to a quarantine officer under a requirement made by this section (whether the requirement is made of that person or of another person); and
- (b) the information is false or misleading in a material particular; and
- (c) the person is negligent as to whether or not the information is false or misleading in that particular.

Maximum penalty for an offence against this subsection:  
Imprisonment for 6 months.

**27B Pre-arrival and pre-departure reports by certain aircraft**

*Aircraft from which reports are required*

- (1) This section applies to the commander of an aircraft (other than a prescribed aircraft) that:
- (a) is intended to arrive at a place in Australia or the Cocos Islands; or
  - (b) is intended to arrive at a place in Australia (other than a place in a Special Quarantine Zone or the Protected Zone) or the Cocos Islands from a place in any of those Zones.

*Quarantine officer to whom pre-arrival report to be sent*

- (2) The commander of the aircraft must cause the prescribed information to be given, in a form approved by a Director of Quarantine, in the prescribed manner and before the prescribed
-

time, to a quarantine officer located at the place that is applicable in respect of the aircraft under regulations made for the purposes of this subsection.

*Action to be taken if report afterwards found to be incomplete or incorrect*

- (3) If, after any of the prescribed information is given to a quarantine officer under subsection (2), the commander or operator of the aircraft becomes aware that the information is incomplete or incorrect, the commander or operator, as the case may be, must cause the additional or correct information to be given to a quarantine officer as soon as practicable.

*Failure to give information*

- (4) A person is guilty of an offence if:
- (a) a requirement of this section applies to the person; and
  - (b) the person fails to comply with the requirement.

Maximum penalty: Imprisonment for 2 years.

Note: Subsection (4) is not subject to the privilege against self incrimination but a use derivative-use indemnity applies (see subsections 79A(1) and (2)).

*Knowingly giving false or misleading information*

- (5) A person is guilty of an offence if:
- (a) the person gives information, or causes information to be given, to a quarantine officer under a requirement made by this section (whether the requirement is made of that person or of another person); and
  - (b) the information is false or misleading in a material particular; and
  - (c) the person knows that the information is false or misleading in that particular.

Maximum penalty: Imprisonment for one year.

*Negligently giving false or misleading information*

- (6) A person is guilty of an offence if:
-

- (a) the person gives information, or causes information to be given, to a quarantine officer under a requirement made by this section (whether the requirement is made of that person or of another person); and
- (b) the information is false or misleading in a material particular; and
- (c) the person is negligent as to whether or not the information is false or misleading in that particular.

Maximum penalty for an offence against this subsection:  
Imprisonment for 6 months.

## **28 Quarantine officer may require master and medical officer of vessel or installation to answer questions**

*Quarantine officer may require master or medical officer to answer questions*

- (1) A quarantine officer may require any of the following:
  - (a) the master of an overseas vessel that has arrived, or is expected to arrive, at a port in Australia or the Cocos Islands;
  - (b) the master of a vessel that has arrived, or is expected to arrive, at a place in Australia or the Cocos Islands (other than a place in the Protected Zone or a Special Quarantine Zone) from a place in the Protected Zone or a Special Quarantine Zone;
  - (c) the master of an overseas installation;
  - (d) the commander of an overseas aircraft that has landed, or is expected to land, at a place in Australia or the Cocos Islands that is not a landing place;
  - (e) if a vessel, installation or aircraft referred to in paragraph (a), (b), (c) or (d) carries a medical officer—that medical officer;
  - (f) the agent of the operator of a vessel, installation or aircraft referred to in paragraph (a), (b), (c) or (d);

to answer questions asked by the quarantine officer about any prescribed matters that are relevant to the vessel, installation or aircraft.

*How questions to be asked and answers to be given*

- (2) Any questions asked by a quarantine officer under subsection (1) may be oral or in writing and the quarantine officer may:
- (a) require the answers to be given orally; or
  - (b) require the answers to be given in writing.

*Requirement to verify answer by written declaration*

- (3) A quarantine officer may require a person who answers a question to verify the answer by making a written declaration.

*Action to be taken if answer found to be incorrect*

- (4) If, after a person answers a question asked under subsection (1), the person becomes aware that the answer is incorrect, the person must cause the correct answer to be sent to a quarantine officer as soon as possible.

*Failure to answer orally*

- (5) A person is guilty of an offence if:
- (a) the person is asked a question under subsection (1); and
  - (b) the person is required to answer the question orally; and
  - (c) the person fails to comply with the requirement.

Maximum penalty: 50 penalty units.

*Failure to answer in writing*

- (6) A person is guilty of an offence if:
- (a) the person is asked a question under subsection (1); and
  - (b) the person is required to answer the question in writing; and
  - (c) the person fails to comply with the requirement.

Maximum penalty: 50 penalty units.

*Failure to make written declaration*

- (7) A person is guilty of an offence if:

- (a) the person is required to verify an answer to a question by making a written declaration; and
- (b) the person fails to comply with the requirement.

Maximum penalty: 50 penalty units.

*False or misleading answer*

- (8) A person is guilty of an offence if:
- (a) the person is asked a question under subsection (1); and
  - (b) the person gives an answer that the person knows to be false or misleading in a material particular.

Maximum penalty: Imprisonment for 5 years.

*False or misleading declaration*

- (9) A person is guilty of an offence if:
- (a) the person is asked to verify an answer to a question by making a written declaration; and
  - (b) the person makes a statement in the declaration that the person knows to be false or misleading in a material particular.

Maximum penalty: Imprisonment for 5 years.

*Failure to send correct answer*

- (10) A person is guilty of an offence if:
- (a) subsection (4) applies to the person; and
  - (b) the person fails to comply with that subsection.

Maximum penalty: 50 penalty units.

*Definition*

- (11) In this section:
- making a written declaration***, in relation to an answer to a question, means signing before an officer a written declaration as to the truth of the answer.

Note: The privilege against self incrimination does not apply in respect of requirements made under this section but a use derivative-use indemnity applies (see subsections 79A(1) and (2)).

**29 People not to leave, or to remove goods from, vessel or installation that is subject to quarantine**

*Master leaving vessel or installation without permission*

- (1) The master of a vessel or installation that is subject to quarantine is guilty of an offence if he or she leaves the vessel or installation without the written permission of a quarantine officer.

Maximum penalty: Imprisonment for 5 years.

*Master knowingly allowing person to leave or remove goods*

- (2) The master of a vessel or installation that is subject to quarantine is guilty of an offence if:
- (a) the master allows a person to leave, or allows a person to remove goods from, the vessel or installation; and
  - (b) the master knows that he or she does not have the written permission of a quarantine officer to allow the person to leave, or to allow the person to remove goods from, as the case may be, the vessel or installation.

Maximum penalty: Imprisonment for 5 years.

*Master negligently allowing person to leave or remove goods*

- (3) The master of a vessel or installation that is subject to quarantine is guilty of an offence if:
- (a) the master allows a person to leave, or allows a person to remove goods from, the vessel or installation; and
  - (b) a quarantine officer has not given written permission to the master to allow the person to leave, or to allow the person to remove the goods from, as the case may be, the vessel or installation; and
  - (c) the master is negligent as to whether or not the written permission has been given.

Maximum penalty: Imprisonment for 2 years.

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*Power to give permissions*

- (4) A quarantine officer has power to give to a specified person, or to persons included in a specified class of persons, written permission to do a specified act, or a specified class of acts, during a specified period for the purposes of this section.

*Contravention of condition of permission*

- (5) The master of a vessel or installation is guilty of an offence if:
- (a) a permission that is given by a quarantine officer to the master for the purposes of this section is subject to a condition; and
  - (b) the condition is contravened.

Maximum penalty: Imprisonment for 2 years.

*Power of master to detain person or goods*

- (6) For the purpose of complying with this section, the master of a vessel or installation may detain any person or goods on the vessel or installation and may use any means reasonably necessary for that purpose.

**29A Animal or thing that has been exposed to an animal that has been killed or has died not to be removed from an overseas vessel or an overseas installation without permission**

*Animal or thing exposed to dead animal not to be removed*

- (1) Except as provided by subsection (2), none of the following may be removed from an overseas vessel or an overseas installation that is at a port or other place in Australia or the Cocos Islands:
- (a) an animal that has been killed, or has died, on the vessel or installation;
  - (b) any thing that has been exposed to an animal that has been so killed or has so died.

Note: As to the circumstances in which a thing is taken to have been exposed to an animal or a carcase of an animal, see section 5B.

*Animal or thing may be removed with permission*

- (2) Subsection (1) does not apply if a quarantine officer has given permission under subsection (3) for the removal.

*Quarantine officer may give permission*

- (3) A quarantine officer has power to give a written permission for a specified act, or a specified class of acts, to be done during a specified period for the purposes of this section.

*Offences*

- (4) The master of an overseas vessel or overseas installation that is at a port or other place in Australia or the Cocos Islands is guilty of an offence if:
- (a) the master causes or permits another person to remove any animal or thing referred to in paragraph (1)(a) or (b) from the vessel or installation without the permission in writing of a quarantine officer; or
  - (b) where a permission in writing given by a quarantine officer for the removal of any animal or thing from the vessel or installation is subject to a condition:
    - (i) the condition has not been complied with; and
    - (ii) the master is negligent as to whether or not the condition has been complied with.

Maximum penalty: Imprisonment for 2 years.

*Definition*

- (5) In this section:

***overseas vessel*** includes:

- (a) a vessel that travels to or from a place in Australia that is in the Protected Zone; and
- (b) a vessel that travels from or through a Special Quarantine Zone.

## **29B Directions about animals on vessels or installations**

### *Directions about animals*

- (1) A Director of Quarantine may give to the master of a vessel or installation referred to in subsection (2) that is at a port or other place in Australia or the Cocos Islands a direction about:
- (a) the confinement, isolation or control of an animal that is on board the vessel or installation; and
  - (b) the people (if any) who may be granted access to such an animal and the nature and extent of that access; and
  - (c) the disposal of an animal that has been killed, or has died, since it was brought on board the vessel or installation.

### *Vessels or installation that may be subject to directions*

- (2) The vessels or installations 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; or
  - (d) another vessel or installation on which there are animals subject to quarantine.

### *Offences*

- (3) A person is guilty of an offence if:
- (a) a direction is given to the person under subsection (1); and
  - (b) the person fails to comply with the direction.

Maximum penalty: Imprisonment for 2 years.

## **160 Saving of requirements**

Any requirement made by a quarantine officer under section 28 of the *Quarantine Act 1908* that was in force immediately before the commencement of this Schedule continues in force as if it had been made under section 28 substituted by item 159.

**161 Subsection 30(1) (penalty)**

Repeal the penalty, substitute:

Maximum penalty: Imprisonment for 2 years.

**162 Subsections 31(1), (1A) and (2)**

Omit “constable”, substitute “police officer”.

**163 Subsection 31(2)**

Omit “Justice of the Peace”, substitute “magistrate”.

**164 Subsection 31(3)**

Repeal the subsection.

**165 Existing section 31 to continue to apply to people apprehended before making of amendments**

Section 31 of the *Quarantine Act 1908* that was in force immediately before the commencement of this Schedule continues to apply in relation to any person who was apprehended under that section and brought before a Justice of the Peace before that commencement.

**166 Section 32 (penalty)**

Repeal the penalty, substitute:

Maximum penalty: Imprisonment for 5 years.

**167 After section 32**

Insert:

**32A Vessel coming from proclaimed place may be directed not to enter a port**

- (1) A Director of Quarantine may direct the master of a vessel that:
- (a) is bound for a port in Australia or the Cocos Islands; and
  - (b) comes from, or calls or lands at, a proclaimed place;
- not to enter any port, or not to enter a specified port, in Australia or the Cocos Islands.

- (2) The master of a vessel is guilty of an offence if:
- (a) a direction is given to the master under subsection (1); and
  - (b) the master fails to comply with the direction.

Penalty: Imprisonment for 5 years.

**168 Subsection 33(1) and paragraph 33(1A)(a)**

Omit “oversea”, substitute “overseas”.

**169 Before paragraph 33(4)(a)**

Insert:

- (aa) all places in Australia; or

**170 At the end of paragraphs 33(4)(a), (b), (c), (d), (e) and (f)**

Add “or”.

**171 After paragraph 33(4)(d)**

Insert:

- (da) all places in the Cocos Islands; or

**172 Subsection 34(3) (penalty)**

Repeal the penalty, substitute:

Maximum penalty: 20 penalty units.

**173 Subsection 34(4)**

Repeal the subsection, substitute:

- (4) Any cargo or passengers’ effects that are landed under this section are to be treated in such manner as a quarantine officer directs.
- (5) A person who is the importer, or has control, of any cargo or passengers’ effects that are landed under this section is guilty of an offence if:
  - (a) a direction is given to the person under subsection (4) in relation to the cargo or effects; and
  - (b) the person fails to comply with the direction.

Maximum penalty: 20 penalty units.

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(6) An offence against this section is an offence of strict liability.

**174 Matters in existing regulations taken to be included in direction**

Any matters relating to the treatment of cargo or passengers' effects that were prescribed for the purposes of subsection 34(4) of the *Quarantine Act 1908* immediately before the commencement of this Schedule are taken, in relation to cargo or passengers' effects landed before that commencement, to be specified in a direction, to the person who is the importer, or has control, of the cargo or passengers' effects, given by a Director of Quarantine for the purposes of subsection 34(4) substituted by item 173.

**175 Subsection 35(1)**

After "quarantinable disease" (wherever occurring), insert "or quarantinable pest".

**176 Subsection 35(1AA)**

Omit "affecting animals or plants", substitute "or pest".

**177 Subsection 35(1A)**

Omit "oversea", substitute "overseas".

**178 Paragraph 35(3)(c)**

Omit "owner", substitute "importer, owner,".

**179 Sections 35A and 36**

Repeal the sections, substitute:

**35A Vessel or installation having a communicable disease on board**

*Circumstances in which section applies*

(1) This section applies if:

- (a) a vessel or installation has on board any case of communicable disease (the *disease*); and

- (b) a quarantine officer (human quarantine) certifies that measures of quarantine are necessary to prevent the disease from spreading.

*Direction as to measures of quarantine to be taken*

- (2) The Chief Quarantine Officer (Human Quarantine) or a quarantine officer (human quarantine) may direct:
  - (a) the measures to be taken for the treatment of the vessel or installation; and
  - (b) any other measures of quarantine to be taken:
    - (i) in relation to the vessel or installation or any goods on it; or
    - (ii) in relation to any people who are or have been on board the vessel or installation or any of their clothing or personal effects;and may give directions as to the persons who are to take the measures.

*People may be ordered into quarantine*

- (3) A quarantine officer (human quarantine) may order into quarantine any people who are or have been on board the vessel or installation and are suffering or suspected to be suffering, or have been exposed to infection, from the disease.

*People ordered into quarantine may be removed to quarantine station*

- (4) A quarantine officer (human quarantine) may cause any people so ordered into quarantine to be removed to a quarantine station.

*People subject to quarantine*

- (5) People suffering, or suspected to be suffering, from the disease are taken to be subject to quarantine even if the disease has not been proclaimed to be a quarantinable disease.

*Offences for failure to take measures*

- (6) A person is guilty of an offence if:
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- (a) a direction is given to the person under subsection (2) to take specified measures; and
- (b) the person fails to comply with the direction.

Maximum penalty: Imprisonment for 2 years.

*Master knowingly or recklessly permitting person suffering from disease to leave vessel or installation*

- (7) The master of the vessel or installation is guilty of an offence if:
- (a) a person is suffering from the disease or has been exposed to infection from the disease; and
  - (b) the master permits the person to leave the vessel or installation without the permission of a quarantine officer (human quarantine); and
  - (c) the master knows that, or is reckless as to whether or not, the person is suffering from the disease or has been exposed to infection from the disease.

Maximum penalty: Imprisonment for 5 years.

*Master negligently permitting person suffering from disease to leave vessel or installation*

- (8) The master of the vessel or installation is guilty of an offence if:
- (a) a person is suffering from the disease or has been exposed to infection from the disease; and
  - (b) the master permits the person to leave the vessel or installation without the permission of a quarantine officer (human quarantine); and
  - (c) the master is negligent as to whether or not the person is suffering from the disease or has been exposed to infection from the disease.

Maximum penalty: Imprisonment for 3 years.

*Person suffering from disease leaving vessel or installation without permission*

- (9) A person is guilty of an offence if:

- (a) the person is suffering, or suspects that he or she is suffering, from the disease or from any other communicable disease; and
- (b) the person leaves the vessel or installation without the permission of a quarantine officer (human quarantine).

Maximum penalty: Imprisonment for 5 years.

*Person in charge of another person allowing the other person to leave the vessel or installation without permission*

- (10) A person (the **first person**) is guilty of an offence if:
- (a) the first person is in charge of another person who is on board the vessel or installation; and
  - (b) the first person allows the other person to leave the vessel or installation without the permission of a quarantine officer (human quarantine); and
  - (c) the first person knows that, or is reckless as to whether or not, the other person is suffering from the disease or from any other communicable disease.

Maximum penalty: Imprisonment for 5 years.

*Definition*

- (11) In this section:

**installation** means:

- (a) an Australian resources installation; or
- (b) a resources installation that is in Australian waters for the purpose of becoming attached to the Australian seabed; or
- (c) an Australian sea installation; or
- (d) a sea installation that is in Australian waters for the purpose of becoming installed in an adjacent area or in a coastal area.

### **36 Master may be directed to take vessel or installation into quarantine**

*Direction to take vessel or installation to quarantine station or other place*

- (1) When a vessel or installation is ordered into quarantine, a quarantine officer may direct the master of the vessel or installation to cause it, and all people and goods on board it, to be immediately taken to such quarantine station or other place or places as are stated in the direction for the purpose of performing quarantine.

*Direction to take vessel or installation to place for treatment*

- (2) When a vessel or installation ordered into quarantine has to be treated in any way, a quarantine officer may direct the master of the vessel or installation to take it to a place stated in the direction for the purpose of being treated.

*Offence*

- (3) A person is guilty of an offence if:
  - (a) a direction is given to the person under this section; and
  - (b) the person fails to comply with the direction.

Maximum penalty: Imprisonment for 5 years.

### **180 Saving of instruments**

*Saving of certificates*

- (1) Any certificate given under subsection 35A(1) of the *Quarantine Act 1908* that was in force immediately before the commencement of this Schedule continues in force as if it had been given under paragraph 35A(1)(b) substituted by item 179.

*Saving of orders*

- (2) An order into quarantine made under subsection 35A(1) of the *Quarantine Act 1908* that was in force immediately before the commencement of this Schedule continues in force as if it had been made under subsection 35A(3) substituted by item 179.
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*Saving of directions*

- (3) Any direction relating to measures of quarantine given by a quarantine officer (human quarantine) under subsection 35A(1) of the *Quarantine Act 1908* that was in force immediately before the commencement of this Schedule continues in force and has effect as if:
- (a) it were a direction given by the Chief Quarantine Officer (Human Quarantine) under subsection 35A(2) substituted by item 179; and
  - (b) the measures of quarantine contained in the direction included any measures of quarantine that were prescribed for the purposes of subsection 35A(1) of the *Quarantine Act 1908* immediately before that commencement.

*Saving of permissions*

- (4) Any permission given for the purposes of subsection 35A(3) or (4) of the *Quarantine Act 1908* that was in force immediately before the commencement of this Schedule continues in force as if it had been given for the purposes of subsection 35A(9) or (10), as the case may be, substituted by item 179.

**181 Subsection 38(1) (penalty)**

Repeal the penalty, substitute:

Maximum penalty: 50 penalty units.

**182 Subsection 38(1A) (penalty)**

Repeal the penalty, substitute:

Maximum penalty: 50 penalty units.

**183 At the end of section 38**

Add:

- (3) An offence against this section is an offence of strict liability.

**184 Section 40**

Repeal the section, substitute:

**40 Vessel or installation in quarantine not to be moved without permission**

- (1) The master of a vessel or installation that is in quarantine is guilty of an offence if he or she allows the vessel or installation to be moved without the written permission of a quarantine officer.

Maximum penalty: Imprisonment for 2 years.

- (2) A quarantine officer may give permission for a vessel or installation that is in quarantine to be moved.

- (3) The master of a vessel or installation that is in quarantine is guilty of an offence if:

- (a) a permission given by a quarantine officer for the movement of the vessel or installation is subject to a condition; and
- (b) the condition has not been complied with; and
- (c) the master is negligent as to whether or not the condition has been complied with.

Maximum penalty: Imprisonment for 2 years.

**185 Section 43**

Repeal the section.

**186 Subsection 44(1) (penalty)**

Repeal the penalty, substitute:

Maximum penalty: Imprisonment for 10 years.

**187 Subsection 44(2) (penalty)**

Repeal the penalty, substitute:

Maximum penalty: Imprisonment for 10 years.

**188 Subsection 44(3)**

Repeal the subsection, substitute:

- (3) If a vessel or installation is displaying flags, lights or other signals that clearly indicate that the vessel or installation is in quarantine:

- (a) any unauthorised person who lands or unships goods from the vessel or installation, or moves goods on the vessel or installation, is presumed, in the absence of evidence to the contrary, to have intended to land or unship the goods, or to have moved the goods in order to land or unship them, as the case may be; and
- (b) any person who receives or has in his or her possession any goods landed or unshipped from the vessel or installation is presumed, in the absence of evidence to the contrary, to have known that the goods were landed or unshipped from the vessel or installation.

Note: In a prosecution for an offence against this section, the defendant bears an evidential burden of proof in respect of evidence to the contrary.

**189 Paragraph 44A(5)(a)**

Omit “Chief Quarantine Officer”, substitute “Director of Quarantine”.

**190 At the end of subsections 44A(2), (3) and (4)**

Add:

Maximum penalty: Imprisonment for 10 years.

**191 Subsection 44A(5) (penalty)**

Repeal the penalty, substitute:

Maximum penalty: Imprisonment for 10 years.

**192 Section 44B**

Repeal the section, substitute:

**44B Landed cargo in quarantine**

*Goods to which section applies*

- (1) This section applies to goods that:
  - (a) formed part of the cargo of a vessel; and
  - (b) are landed in Australia or the Cocos Islands; and
  - (c) are subject to quarantine.

*Actions to which section applies*

- (2) The following are **relevant acts** in relation to goods:
- (a) moving the goods:
    - (i) from the part of the precincts of the wharf or airport, or from the Australian installation, where they were landed; or
    - (ii) from a place to which they have been moved with the consent of a quarantine officer;
  - (b) dealing with the goods;
  - (c) interfering with the goods.

*Offence for doing act without permission*

- (3) A person is guilty of an offence if:
- (a) the person does a relevant act in relation to goods; and
  - (b) the person does not have the permission of a quarantine officer under subsection (6) or of a Director of Quarantine under subsection (7) to do the act.

Maximum penalty: Imprisonment for 10 years.

*Offence for doing an act recklessly in contravention of condition of permission*

- (4) A person is guilty of an offence if:
- (a) the person does a relevant act in relation to goods; and
  - (b) the person has the permission of a quarantine officer under subsection (6) or of a Director of Quarantine under subsection (7) to do the act; and
  - (c) the permission is subject to a condition; and
  - (d) the condition is contravened; and
  - (e) the person is reckless as to whether or not the condition is contravened.

Maximum penalty: Imprisonment for 10 years.

*Defence*

- (5) It is a defence to a prosecution for an offence against subsection (3) or (4) if the defendant proves that the relevant act was done for the purpose of taking the goods, in accordance with conditions specified by a quarantine officer, from the part of the precincts of the wharf or airport where the goods were landed in Australia or the Cocos Islands to a port at which the goods are permitted to enter Australia or the Cocos Islands, as the case may be.

Note: A defendant bears a legal burden in relation to a matter mentioned in subsection (5) (see subsection 13.4 of the *Criminal Code*).

*Permission by quarantine officer*

- (6) A quarantine officer may give permission to a person to do a specified relevant act in relation to specified goods.

*Permission by Director of Quarantine*

- (7) A Director of Quarantine may give permission to a person to do one or more relevant acts in relation to goods included in a specified class of goods.

*No specified criteria for granting permission*

- (8) In deciding whether to give permission, a quarantine officer or a Director of Quarantine may have regard to such matters as he or she thinks relevant.

**193 Saving of instruments**

Any permission, consent, approval, or specification of conditions, under a provision of section 44B of the *Quarantine Act 1908* that was in force immediately before the commencement of this Schedule continues in force as if it were a permission, consent, approval or specification of conditions, as the case may be, under the corresponding provision of section 44B substituted by item 192.

**194 Subsections 44C(2), (3) and (4)**

Repeal the subsections, substitute:

- (2) The quarantine officer must:
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- (a) if he or she is of the opinion that there is an unacceptably high level of quarantine risk in respect of the goods—order the goods into quarantine; or
- (b) otherwise—release the goods from quarantine.

**195 Subsection 44D(2)**

Repeal the subsection, substitute:

- (2) If, after the examination of the goods under subsection (1), a quarantine officer is of the opinion that there is an unacceptably high level of quarantine risk in respect of the goods, the officer must order the goods into quarantine.

**196 Subsection 45(2) (penalty)**

Repeal the penalty, substitute:

Maximum penalty: 30 penalty units.

**197 Subsection 45(3A) (penalty)**

Repeal the penalty, substitute:

Maximum penalty: 50 penalty units.

**198 Subsection 45(4) (penalty)**

Repeal the penalty, substitute:

Maximum penalty: 30 penalty units.

**199 At the end of section 45**

Add:

- (5) An offence against this section is an offence of strict liability.

**200 Sections 46A, 47 and 48**

Repeal the sections, substitute:

## **46A Approvals for the purpose of goods ordered into quarantine**

### *Giving of approvals*

- (1) A Director of Quarantine may, on application by the owner or occupier of a place and on payment of the prescribed fee, by writing:
  - (a) approve the place as a place where goods of a specified class that are subject to quarantine may be treated or otherwise dealt with; and
  - (b) if a place is so approved—approve goods of that class being moved, dealt with or interfered with in a way set out in the approval while they are at that place.

### *Applications for approvals*

- (2) Applications for approvals are to contain such information, and be accompanied by such documents, as a Director of Quarantine determines.

### *Applicant may be required to make declaration*

- (3) Without limiting subsection (2) but subject to Part VIIC of the *Crimes Act 1914*, a Director of Quarantine may require a person who applies for an approval to make and sign a written declaration before an officer stating:
  - (a) whether the person has been convicted of:
    - (i) an offence against this Act; or
    - (ii) an offence against the *Customs Act 1901* in relation to the importation or movement of, or an interference with, goods; or
    - (iii) an offence against any other Act prescribed for the purposes of this section; and
  - (b) whether a previous application under subsection (1) by the person has been granted or refused; and
  - (c) whether any approval given under this section or under any other provision of this Act to, or on the application of, the person has been suspended or revoked.

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*Criteria for giving approvals*

- (4) In deciding whether to give an approval, the Director of Quarantine must take into account:
- (a) whether the procedures proposed in the application to be carried out (the ***proposed procedures***) in relation to the goods at the place:
    - (i) can be carried out without an unacceptably high level of quarantine risk; and
    - (ii) can be carried out without any contravention of this Act; and
    - (iii) will be capable of being effectively monitored to determine whether this Act is being complied with; and
    - (iv) will be of such a nature as will enable the correctness of any oral or written statements made in connection with the application for the approval to be determined; and
  - (b) whether the proposed arrangements for the management and control of the place and the operational practices proposed to be carried out at the place are adequate, having regard to the nature of the goods, the proposed procedures and the level of quarantine risk; and
  - (c) whether the location of the place is appropriate, and whether the construction of the premises, equipment and other facilities and the services provided at the place are adequate, having regard to the nature of the goods, the proposed procedures and the level of quarantine risk; and
  - (d) whether the place is sufficiently close to the nearest place where duties are regularly performed by quarantine officers who could appropriately be called upon to check whether this Act is being complied with in relation to the place and the goods; and
  - (e) whether the applicant has the capacity to comply with the proposed procedures; and
  - (f) whether any person who manages or controls, or is an occupier of, the place or would be carrying out the proposed procedures, has, subject to Part VIIC of the *Crimes Act 1914*, been convicted of:
    - (i) an offence against this Act; or
-

- (ii) an offence against the *Customs Act 1901* in relation to the importation or movement of, or an interference with, goods; or
- (iii) an offence against any other Act prescribed for the purposes of this section; and
- (g) any other matters that the Director thinks relevant.

*Period of approval*

- (5) An approval has effect for a period (not exceeding one year) specified in the approval but, subject to subsection (6), may be renewed on one or more occasions.

*When application to be made*

- (6) An application for the renewal of an approval is to be made:
  - (a) within the period of 3 months immediately before the end of the period of approval; or
  - (b) if a Director of Quarantine consents, after the end of the period of approval.

*Renewal given after expiry of approval to have retrospective effect*

- (7) If an approval is renewed at any time after the end of the period of approval, the period for which the renewed approval has effect is taken to have begun at the end of the period of the previous approval.

*Offences for recklessly contravening conditions*

- (8) A person is guilty of an offence if:
  - (a) an approval was given to the person subject to a condition; and
  - (b) the condition is contravened; and
  - (c) the person is reckless as to whether or not the condition is contravened.

Maximum penalty: Imprisonment for 2 years.

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*Criteria for suspending or revoking approvals*

- (9) The grounds on which a Director of Quarantine may suspend or revoke an approval are:
- (a) that any of the procedures (the *procedures*) carried out in relation to the goods at the approved place:
    - (i) cannot be carried out without an unacceptably high level of quarantine risk; or
    - (ii) cannot be carried out without a contravention of this Act; or
    - (iii) are not capable of being effectively monitored to determine whether this Act is being complied with; or
    - (iv) are of such a nature as will not enable the correctness of an oral or written statement made in connection with the application for the approval to be determined; or
  - (b) that the arrangements for the management and control of the place or the operational practices carried out at the place are not adequate, having regard to the nature of the goods, the procedures and the level of quarantine risk; or
  - (c) that the location of the place is not appropriate, or the construction of the premises, equipment or other facilities or the nature of the services provided at the place is not adequate, having regard to the nature of the goods, the procedures and the level of quarantine risk; or
  - (d) that the place is not sufficiently close to the nearest place where duties are regularly performed by quarantine officers who could appropriately be called upon to check whether this Act is being complied with in relation to the place and the goods; or
  - (e) that the applicant has not complied with any one or more of the procedures; or
  - (f) that a person who manages or controls, or is an occupier of, the place or is carrying out any of the procedures, has, subject to Part VIIC of the *Crimes Act 1914*, been convicted of:
    - (i) an offence against this Act; or
    - (ii) an offence against the *Customs Act 1901* in relation to the importation or movement of, or an interference with, goods; or
-

- (iii) an offence against another Act prescribed for the purposes of this section; or
- (g) that a condition to which the approval of the place is subject has been contravened; or
- (h) any other matter that the Director thinks relevant.

*Notice of suspension, variation or revocation*

- (10) If an approval is suspended, varied or revoked, written notice of the suspension, variation or revocation, stating the grounds for it, is to be given as soon as practicable to the person who applied for the approval.

*Action to be taken if approval expires or is suspended or revoked*

- (11) If an approval expires, or is suspended or revoked, a Director of Quarantine:
  - (a) may, by written notice given to the person who applied for the approval, require the person to take, within a period stated in the notice:
    - (i) if the approval was an approval of a place—such action with respect to the place or goods at the place as is so stated; or
    - (ii) if the approval was an approval of a class of goods—such action with respect to goods of that class at the place as is so stated; and
  - (b) if the action is not taken within the stated period—may, by written notice given to another person who is able to take the action, direct the other person to take the action within a period stated in the notice.

*Offence for failing to take action*

- (12) A person is guilty of an offence if:
  - (a) a notice is given to the person under subsection (11); and
  - (b) the person fails to comply with the notice.

Maximum penalty: Imprisonment for 2 years.

*Application of section to renewal of approval*

- (13) This section applies to an application for, to the giving of, and to the suspension, variation or revocation of, the renewal of an approval in the same way as it applies to an application for, to the giving of, and to the suspension, variation or revocation of, an approval.

**48 Goods ordered into quarantine**

*Power to detain goods*

- (1) A quarantine officer may direct that goods ordered into quarantine:
- (a) are to be detained on board the relevant vessel or installation in such manner, and for such period, as a quarantine officer determines; or
  - (b) are to be taken to, and detained at, a quarantine station or other place in such manner, and for such period, as a quarantine officer determines; or
  - (c) are to be exported from Australia in such manner as a quarantine officer determines.

*Power to treat goods*

- (2) A quarantine officer may:
- (a) cause goods ordered into quarantine to be treated in such manner as he or she determines; or
  - (b) direct a person to cause the goods to be treated in a manner specified in the direction.

*Direction as to movement etc. of goods*

- (3) A quarantine officer may give a direction to a person as to the extent (if any) to which goods that have been ordered into quarantine may be moved, dealt with or interfered with.

*To whom direction may be given*

- (4) A direction under this section may be given to:
- (a) the importer or owner of the goods; or

- (b) if the goods are on board a vessel or installation—the master of the vessel or installation; or
- (c) a person who is in control of the goods.

*Contravention of direction to be an offence*

- (5) A person is guilty of an offence if:
  - (a) a direction is given to the person under this section; and
  - (b) the person contravenes the direction.

Maximum penalty: Imprisonment for 2 years.

*Further detention of goods*

- (6) If, at the end of the period for which any goods have been detained at a vessel, installation, quarantine station or other place under subsection (1) or this subsection, a Director of Quarantine is of the opinion that the goods cannot be released without an unacceptably high level of quarantine risk, he or she may direct that the goods be detained at the vessel, installation, quarantine station or other place in such manner, and for such further period, as is stated in the direction.

*Definition*

- (7) In this section:

***quarantine station***, in relation to any goods, includes a place approved under section 46A in respect of a class of goods in which the goods are included.

## **48AA Treatment and destruction of goods**

*Application*

- (1) This section applies to any goods that are required under this Act to be treated.

*Power to destroy goods*

- (2) Subject to subsection (3), if a quarantine officer believes on reasonable grounds that the goods cannot be effectively treated, he or she may cause them to be destroyed.

*Ministerial approval for destruction of goods*

- (3) If the value of any goods to which subsection (2) applies exceeds:
- (a) unless paragraph (b) applies—\$1,000; or
  - (b) if a higher amount is prescribed by the regulations—the higher amount;
- the goods must not be destroyed without the written approval of the Minister.

*Request to owner or agent to agree to treatment of goods*

- (4) If a quarantine officer believes on reasonable grounds that the goods cannot be effectively treated without damaging them, the quarantine officer must, by notice in writing given to the owner of the goods or the agent of the owner, tell the owner or agent that the treatment is likely to damage the goods and request the owner or agent to agree to the goods being treated.

*Forfeiture of untreated goods*

- (5) If:
- (a) a notice is given to the owner of goods or the agent of the owner under subsection (4); and
  - (b) the owner or agent does not, before the end of 30 days after the day on which the owner or agent receives the notice, give written notice to a Director of Quarantine stating that the owner or agent agrees to the goods being treated;
- the goods are forfeited to the Commonwealth and a quarantine officer may seize them and cause them to be sold, destroyed, exported from Australia or otherwise disposed of.

**48AB Treatment of things that have been exposed to animals that were subject to quarantine**

*Direction to treat animals or things exposed to an animal subject to quarantine*

- (1) If any animal, plant or other goods have been exposed to an animal at a time when the animal was subject to quarantine, a quarantine officer may direct a person referred to in subsection (2) to treat the animal, plant or other goods in a manner stated in the direction.

Note: For the circumstances in which any animal, plant or other goods are taken to have been exposed to an animal, see section 5B.

*To whom direction may be given*

- (2) A direction under subsection (1) may be given to:
- (a) the importer of the animal, plant or other goods; or
  - (b) a person who is in control of the animal, plant or other goods; or
  - (c) if the animal, plant or other goods have not been removed from the vessel or installation on which they were brought to Australia—the master of the vessel or installation.

*Treatment of vehicle*

- (3) If a vehicle has been exposed to an animal at a time when the animal was subject to quarantine, a quarantine officer may direct the owner of the vehicle to treat the vehicle in a manner stated in the direction.

Note: For the circumstances in which a vehicle is taken to have been exposed to an animal, see section 5B.

*Treatment of premises*

- (4) If any premises (other than a vehicle) have been exposed to an animal or plant at a time when the animal or plant was subject to quarantine, a quarantine officer may direct:
- (a) the owner of the premises; or
  - (b) if the owner is not the occupier of the premises—the occupier of the premises;

to treat the premises in a manner stated in the direction.

Note: For the circumstances in which premises are taken to have been exposed to an animal or plant, see section 5B.

*Offence*

- (5) A person is guilty of an offence if:
- (a) a direction is given to the person under this section; and
  - (b) the person fails to comply with the direction.

Maximum penalty: Imprisonment for 2 years.

*Definition*

- (6) In this section:

*subject to quarantine* includes under quarantine surveillance.

#### **48AC Diseased plant grown from another plant**

- (1) If a quarantinable disease is found in a plant (the ***relevant plant***) that has been grown from another plant, or grown from a part of, or seed from, another plant, under this Act, a Director of Quarantine may cause, or may give a direction to an appropriate person to cause:
- (a) the relevant plant or any part of that plant; or
  - (b) the soil in which the relevant plant was grown; or
  - (c) the other plant, or any part of, or seed from, the other plant; or
  - (d) any plant or part of a plant, or any seed, imported together with the other plant or a seed from the other plant;
- to be subjected to such treatment as the Director determines.

Note: See section 48AA, which allows goods that cannot be effectively treated to be destroyed in certain circumstances.

- (2) In subsection (1):

***appropriate person*** means the person in control of the plant, soil or seed to which the direction relates.

- (3) A person is guilty of an offence if:

- (a) a direction is given to the person under subsection (1); and
- (b) the person fails to comply with the direction.

Maximum penalty: Imprisonment for 2 years.

#### **48AD Packages, packing material and other waste material**

- (1) A Director of Quarantine may give to a person who:
  - (a) carries on the business of unloading overseas vessels at a place on a wharf or a place at an airport; or
  - (b) carries on the business of unpacking imported cargo at a place in respect of which a licence is in force under section 77G of the *Customs Act 1901* or at a place approved under section 46A; or
  - (c) is an occupier of a place referred to in paragraph (a) or (b);a direction to treat, or to destroy or otherwise dispose of, any package, packing material or other waste material that is situated at that place.
- (2) A person is guilty of an offence if:
  - (a) a direction is given to the person under subsection (1); and
  - (b) the person fails to comply with the direction.

Maximum penalty: Imprisonment for 2 years.

#### **201 Saving of approvals**

An approval of a place that a quarantine officer purported to give under subsection 46A(1) of the *Quarantine Act 1908* and that purported to be in force immediately before the commencement of this Schedule has effect as if:

- (a) it were an approval duly given by a Director of Quarantine under paragraph 46A(1)(a) substituted by item 200; and
- (b) any conditions to which the approval purported to be subject were validly imposed for the purposes of section 46A substituted by that item.

#### **202 Subsection 48A(1)**

Omit “Chief Quarantine Officer”, substitute “Director of Quarantine”.

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**203 Subsections 48A(1) and (2)**

Omit “and may be destroyed or otherwise disposed of”, substitute “and a quarantine officer may cause them to be sold, destroyed, exported from Australia or otherwise disposed of”.

**204 At the end of section 48A**

Add:

- (3) If, after making reasonable inquiries, a quarantine officer has been unable to find out the identity or whereabouts of the owner of goods that are in quarantine and certifies in writing to that effect, the goods are forfeited to the Commonwealth and a quarantine officer may cause them to be sold, destroyed, exported from Australia or otherwise disposed of.

**205 Section 49 (penalty)**

Repeal the penalty, substitute:

Maximum penalty: Imprisonment for 2 years.

**206 Sections 50 and 51**

Repeal the sections.

**207 Subsection 52(1)**

Omit “quarantine officer prescribed for the purpose, or a person authorised by such an officer to do so,”, substitute “person authorised by a Director of Quarantine”.

**208 At the end of subsection 52(3)**

Add “for such period as the Director of Quarantine determines”.

**209 Subsection 52(5)**

Repeal the subsection, substitute:

- (5) An animal may be released from quarantine under quarantine surveillance unconditionally or subject to conditions notified by a quarantine officer to the importer of the animal when it is so released or at any time while it is under quarantine surveillance.

- (5A) If an animal is released from quarantine under quarantine surveillance, a quarantine officer may give to the person to whom the animal is delivered directions about any one or more of the following:
- (a) where the animal is to be kept;
  - (b) how it is to be kept;
  - (c) how it is to be dealt with;
  - (d) the people who may be given access to it and the times and manner of the access;
  - (e) whether it may be moved and, if so, the manner in which, and the place to which, it may be moved;
  - (f) examination of it;
  - (g) how it is to be treated;
  - (h) tests that may be carried out on it.
- (5B) A direction given under subsection (5A) may be given when the animal is released or at any time while it is under quarantine surveillance.
- (5C) A person is guilty of an offence if:
- (a) a condition is notified to the person under subsection (5) or a direction is given to the person under subsection (5A); and
  - (b) the person fails to comply with the condition or direction.

Maximum penalty: Imprisonment for 2 years.

## **210 Subsections 52A(1) to (4)**

Repeal the subsections, substitute:

- (1) A person authorised by a Director of Quarantine may examine any animal or plant that is subject to quarantine and is on board an installation.
- (2) A quarantine officer must:
  - (a) if he or she is of the opinion that there is an unacceptably high level of quarantine risk in respect of the animal or plant—order the animal or plant into quarantine; or
  - (b) otherwise—release the animal or plant from quarantine.

## **211 Subsections 53(2) to (4)**

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Repeal the subsections, substitute:

- (2) A quarantine officer must:
  - (a) if he or she is of the opinion that there is an unacceptably high level of quarantine risk in respect of the plant—order the plant into quarantine; or
  - (b) otherwise—release the plant from quarantine.

## **212 Subsection 55A(1)**

Repeal the subsection, substitute:

- (1) A quarantine officer may:
  - (a) examine any goods to which this section applies; and
  - (b) order into quarantine any of the goods that, in the officer's opinion:
    - (i) are, or are likely to be, infected with a disease or pest; or
    - (ii) contain, or appear to contain, any disease or pest; or
    - (iii) have been exposed to infection from a disease or pest.

## **213 Paragraph 55A(2)(b)**

Omit all the words before subparagraph (i), substitute:

any other goods that have been or are, or that an officer has reasonable cause to believe have been or are, on board any of the following:

## **214 After subparagraph 55A(2)(b)(i)**

Insert:

- (ia) a vessel that travels to a place in Australia from or through a place in the Protected Zone;
- (ib) a vessel that travels to a place in Australia from or through a place in a Special Quarantine Zone;

## **215 At the end of subparagraph 55A(2)(b)(v)**

Omit “or”.

## **216 Sections 56 and 58**

Repeal the sections.

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**217 Section 59A**

Repeal the section, substitute:

**59A Liability for costs of pilotage, treatment etc.**

The master, owner and agent of any vessel ordered into quarantine, or ordered to be treated, are jointly and severally liable to pay to the Commonwealth the cost of:

- (a) the piloting or towing of the vessel; or
- (b) the removal of cargo or other goods or things from the vessel; or
- (c) the treatment of the vessel or of cargo or other goods or things on the vessel or removed from it.

**218 Section 60**

Repeal the section.

**219 At the end of section 63A**

Add:

- (2) A Director of Quarantine may, by notice given to the owner of an animal ordered into quarantine, direct the owner to provide sustenance for the animal during the period, or a part of the period, while the animal is so held.
- (3) A person is guilty of an offence if:
  - (a) a direction is given to the person under subsection (2); and
  - (b) the person fails to comply with the direction.

Maximum penalty: 50 penalty units.

**220 Subsection 64(1)**

Repeal the subsection, substitute:

- (1) The importer and owner of any animals, plants or other goods that are subject to quarantine or are under quarantine surveillance are jointly and severally liable to pay to the Commonwealth any expenses connected with:
  - (a) the examination of the animals, plants or other goods; or

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(b) their transportation; or  
(c) their detention, maintenance, treatment or movement; or  
(d) their removal, disposal and destruction under a power conferred, or an order or direction given, under this Act;  
and those expenses are a charge upon the animals, plants or other goods and may be recovered as provided in this Part.

(1A) The owner, or any person who is in control, of any animals, plants or other goods that are required to be examined, transported, detained, maintained, treated, moved, removed, disposed of or destroyed as mentioned in subsection (1) may, with the permission of a quarantine officer, provide at the expense of the owner or that person any cartage or labour required in respect of the carrying out of the requirement.

## **221 After Part VI**

Insert:

## **Part VIA—Enforcement**

### **Division 1—General powers**

#### **66AA General powers of quarantine officers in relation to premises**

##### *Nature of powers*

- (1) The powers that a quarantine officer may exercise under paragraph 66AB(1)(b), subparagraph 66AC(4)(a)(ii) or paragraph 66AE(1)(b) or 66AG(1)(b) in relation to particular premises are as follows:
- (a) to search the premises and any thing on the premises;
  - (b) to examine any thing on the premises;
  - (c) to take photographs (including video or audio recordings) or to make sketches of the premises or any thing on the premises;
  - (d) to take extracts from, or make copies of, any document on the premises;
  - (e) to secure the premises or any thing on the premises;

- (f) if tests are to be carried out on samples taken of any thing on the premises and the quarantine officer thinks it is necessary to do so, to remove the samples from the premises for the purpose of conducting the tests;
- (g) to order into quarantine any infected goods found on the premises;
- (h) if the quarantine officer has reasonable grounds to suspect that infected goods have been or are on the premises—to carry out prescribed measures for regulating or preventing people, vehicles or goods from entering or leaving the premises, or prescribed measures of quarantine on or relating to the premises, during:
  - (i) the search referred to in paragraph (a) and the examination referred to in paragraph (b); and
  - (ii) the taking of samples of goods found on the premises or the conducting of tests on such samples; and
  - (iii) any period for which infected goods found on the premises remain on the premises, whether because of an approval of the premises under section 46A or otherwise; and
  - (iv) such period after the treatment of infected goods found on the premises as the quarantine officer considers, on reasonable grounds, to be a period during which there is a danger of the spread of diseases or pests because of those goods having been on the premises;
- (i) to affix on or near the premises notices in relation to quarantine that have been approved by a Director of Quarantine;
- (j) to trap or destroy animals on the premises;
- (k) to exercise any other powers that the quarantine officer has under this Act in respect of the premises or infected goods found on the premises.

*Powers in respect of vehicles*

- (2) If, while a quarantine officer is entitled to exercise powers referred to in subsection (1) in relation to premises, any vehicle leaves the premises without the permission of the quarantine officer, the

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quarantine officer may exercise those powers, so far as relevant, in relation to the vehicle as if it were part of the premises.

*Extension of meaning of **exposed***

- (3) For the purposes of this section, but without affecting the operation of section 5B:
- (a) an animal is taken to have been **exposed** to any animal of which it is the progeny; and
  - (b) a plant is taken to have been **exposed** to any plant of which it is the progeny, including any plant of which it was a cutting or from which it was otherwise derived.

*Prescribed measures*

- (4) For the purposes of paragraph (1)(h):
- (a) each of the following is a **prescribed measure for regulating or preventing people, vehicles or goods from entering or leaving the premises**:
    - (i) stopping a person or vehicle;
    - (ii) prohibiting a person from proceeding, moving goods, or driving or moving a vehicle, beyond a specified point or outside a specified area;
    - (iii) prohibiting a person from entering, moving goods, or driving or moving a vehicle, into a specified area;
    - (iv) requiring a person to proceed, move goods, or drive or move a vehicle, along a specified route or to a specified area;
    - (v) removing a person, a vehicle or goods from any area; and
  - (b) each of the following is a **prescribed measure of quarantine**:
    - (i) treating any person, premises or goods;
    - (ii) requiring a person to treat himself or herself or any clothes that he or she is wearing or has in his or her possession;
    - (iii) isolating people, premises or goods;
    - (iv) examining an animal for the purpose of determining whether it is infected with a disease or pest;

- (v) detaining an animal for the purpose of examining it as mentioned in subparagraph (iv);
- (vi) detaining any goods for the purpose of carrying out any treatment in relation to a disease or pest.

*Infected goods*

(5) In this section:

***infected goods*** means any of the following goods:

- (a) goods infected with a quarantinable disease or quarantinable pest;
- (b) goods that a quarantine officer suspects, on reasonable grounds, are likely to be infected with a quarantinable disease or a quarantinable pest;
- (c) goods that have been exposed to infection with a quarantinable disease or quarantinable pest;
- (d) goods that have been:
  - (i) imported into Australia or the Cocos Islands; or
  - (ii) brought into, or landed at, any port or other place in Australia or the Cocos Islands; or
  - (iii) removed from a part of Australia to another part of Australia; or
  - (iv) removed from a part of the Cocos Islands to another part of the Cocos Islands; or
  - (v) removed from Australia to the Cocos Islands; or
  - (vi) removed from the Cocos Islands to Australia; orin contravention of this Act;
- (e) goods that have been exposed to, or that a quarantine officer suspects, on reasonable grounds, have been exposed to, goods referred to in paragraph (a), (b), (c) or (d).

## Division 2—Monitoring powers

### 66AB The monitoring of premises

- (1) For the purpose of deciding whether to exercise a power under this Act or finding out whether this Act is being complied with, a quarantine officer, at any time and with any necessary help, may:
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- (a) enter:
    - (i) any premises approved for the purposes of a provision of this Act; or

Note: For premises that have been approved, see for example subsection 44A(5) and section 46A.

    - (ii) a quarantine station; or
    - (iii) any premises at which procedures are authorised under a compliance agreement to be carried out; or
    - (iv) any other premises with the consent of the occupier; and
  - (b) exercise the powers set out in section 66AA.
- (2) If the relevant premises are a vessel or a vehicle, a quarantine officer may stop and detain the vessel or vehicle for the purpose of exercising a power conferred by subsection (1).
- (3) For the purpose of examining domestic animals in the Cocos Islands, a quarantine officer, at any time and with any necessary help, may:
- (a) enter any premises on the Cocos Islands with the consent of the occupier; and
  - (b) search the premises for domestic animals; and
  - (c) if a domestic animal is found on the premises:
    - (i) cause an examination of the animal and of the premises to be carried out to ensure that the animal is healthy and the premises are clean and free from infection; and
    - (ii) take whatever measures are required to improve the health of the animal, including the treatment of the animal; and
    - (iii) take whatever measures are required to treat the premises; and
    - (iv) give to any person on the premises any directions that the quarantine officer considers necessary to enable him or her to exercise the powers referred to in subparagraphs (i), (ii) and (iii).

## **66AC Monitoring warrants**

- (1) A quarantine officer may apply to a magistrate for a warrant under this section in relation to particular premises.
-

- (2) Subject to subsection (3), the magistrate may issue a warrant if satisfied, by information on oath or affirmation, that it is reasonably necessary that the quarantine officer should have access to the premises for the purpose of:
  - (a) deciding whether to exercise a power under this Act; or
  - (b) finding out:
    - (i) whether this Act has been complied with; and
    - (ii) if the premises are in the Cocos Islands—whether any domestic animals are on the premises.
- (3) The magistrate must not issue a warrant unless the quarantine officer or another person has given the magistrate, either orally (on oath or affirmation) or by affidavit, such further information as the magistrate requires about the grounds on which the issue of the warrant is being sought.
- (4) The warrant must:
  - (a) authorise a quarantine officer named in the warrant, with such assistance and by such force as is necessary and reasonable, from time to time, while the warrant remains in force:
    - (i) to enter the premises; and
    - (ii) to exercise powers of the kind set out in section 66AA in relation to the premises; and
    - (iii) if the premises are in the Cocos Islands—to exercise the powers referred to in paragraphs 66AB(3)(b) and (c) in relation to the premises; and
  - (b) state whether an entry under the warrant is authorised to be made at any time of the day or night or during specified hours of the day or night; and
  - (c) specify the day (not more than 6 months after the day on which the warrant is issued) on which the warrant ceases to have effect; and
  - (d) state the purpose for which the warrant is issued.

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**66AD Seizures without offence-related warrant in emergency situations**

- (1) This section applies when a quarantine officer has entered premises under section 66AB or under a warrant issued under section 66AC.
- (2) If the quarantine officer suspects, on reasonable grounds, that:
  - (a) particular evidential material is on the premises; and
  - (b) it is necessary to seize the evidential material in order to prevent it from being concealed, lost or destroyed; and
  - (c) it is necessary to do so without the authority of a warrant under section 66AF because the circumstances are serious and urgent;the quarantine officer may seize the evidential material if he or she finds it there.

**Division 3—Offence-related searches and seizures****66AE Offence-related searches and seizures**

- (1) Subject to subsection (2), if a quarantine officer has reasonable grounds for suspecting that there may be, on any premises, particular evidential material, the officer, at any time and with any necessary help, may:
  - (a) enter the premises; and
  - (b) exercise the powers set out in section 66AA; and
  - (c) seize that evidential material, if the officer finds it on the premises.
- (2) A quarantine officer is not authorised to enter premises under subsection (1) unless:
  - (a) the premises are:
    - (i) premises approved for the purposes of a provision of this Act; or

Note: For premises that have been approved, see for example subsection 44A(5) and section 46A.

  - (ii) a quarantine station; or
  - (iii) premises at which procedures are being carried out under a compliance agreement; or

- (b) the occupier of the premises has consented to the entry.
- (3) If the relevant premises are a vessel or vehicle, a quarantine officer may stop and detain the vessel or vehicle for the purpose of exercising a power conferred by subsection (1).

#### **66AF Offence-related warrants**

- (1) A quarantine officer may apply to a magistrate for a warrant under this section in relation to particular premises.
- (2) Subject to subsection (3), a magistrate may issue the warrant if satisfied, by information on oath or affirmation, that there are reasonable grounds for suspecting that there is, or may be within the next 72 hours, any evidential material at the premises.
- (3) A magistrate must not issue a warrant unless the quarantine officer or some other person has given the magistrate, either orally (on oath or affirmation) or by affidavit, such further information as the magistrate requires about the grounds on which the issue of the warrant is being sought.
- (4) The warrant must:
  - (a) state the offence to which the warrant relates; and
  - (b) describe the premises to which the warrant relates; and
  - (c) describe the kinds of evidential material that are to be searched for under the warrant; and
  - (d) state the name of the quarantine officer who is to be responsible for executing the warrant; and
  - (e) state the period for which the warrant remains in force, which must not be more than 7 days; and
  - (f) state whether the warrant may be executed at any time of the day or night or only during specified hours of the day or night.
- (5) The warrant must also state that the warrant authorises the seizure of a thing (other than evidential material of the kind referred to in paragraph (4)(c)) found at the premises in the course of the search that the executing officer or an officer assisting believes on reasonable grounds to be:

- (a) evidential material in relation to an offence to which the warrant relates; or
  - (b) evidential material in relation to another offence against this Act;
- if the executing officer or an officer assisting believes on reasonable grounds that seizure of the thing is necessary to prevent its concealment, loss or destruction or its use in committing an offence against this Act.
- (6) Paragraph (4)(e) does not prevent the issue of successive warrants in relation to the same premises.
- (7) If the application for the warrant is made under section 66AH, this section applies as if:
  - (a) subsection (2) referred to 48 hours rather than 72 hours; and
  - (b) paragraph (4)(e) referred to 48 hours rather than 7 days.

**66AG The things that are authorised by a search warrant**

- (1) A warrant under this Division that is in force in relation to premises authorises the executing officer or an officer assisting:
  - (a) to enter the premises; and
  - (b) to exercise the powers set out in section 66AA; and
  - (c) to search the premises and any thing on the premises for the kinds of evidential material specified in the warrant, and to seize things of those kinds found at the premises; and
  - (d) to seize other things found at the premises in the course of the search that the executing officer or an officer assisting believes on reasonable grounds to be:
    - (i) evidential material in relation to an offence to which the warrant relates; or
    - (ii) evidential material in relation to another offence against this Act;
- if the executing officer or an officer assisting believes on reasonable grounds that seizure of the thing is necessary to prevent its concealment, loss or destruction or its use in committing an offence against this Act.

- (2) If the warrant states that it may be executed only during particular hours, the warrant must not be executed outside those hours.
- (3) If things are seized under a warrant, the warrant authorises the executing officer to make the things available to officers of other agencies if it is necessary to do so for the purpose of investigating or prosecuting an offence to which the things relate.

## **Division 4—Warrants granted by telephone or other electronic means**

### **66AH Warrants may be granted by telephone or other electronic means**

- (1) A quarantine officer may apply to a magistrate for a warrant under section 66AC or 66AF by telephone, facsimile or other electronic means:
  - (a) in an urgent case; or
  - (b) if the delay that would occur if an application were made in person would frustrate the effective execution of the warrant.
- (2) The magistrate may require voice communication to the extent that it is practicable in the circumstances.
- (3) An application under this section must include all information required to be provided in an ordinary application for a warrant under section 66AC or 66AF, as the case requires, but the application may, if necessary, be made before the information is sworn or affirmed.
- (4) If a magistrate to whom an application is made under this section is satisfied:
  - (a) after having considered the information mentioned in subsection (3); and
  - (b) after having received any further information that the magistrate requires about the grounds on which the issue of the warrant is being sought;that there are reasonable grounds for issuing the warrant, the magistrate may complete and sign the same form of warrant as would be issued under section 66AC or 66AF, as the case requires.

- (5) If a magistrate signs a warrant under subsection (4):
  - (a) the magistrate must notify the quarantine officer, by telephone, facsimile or other electronic means, of the terms of the warrant and the date on which and the time at which it was signed, and write on it the reasons for granting it; and
  - (b) the officer must complete a form of warrant in the terms notified to the officer by the magistrate and write on it the name of the magistrate and the date on which and the time at which it was signed.
- (6) If a quarantine officer completes a form of warrant under subsection (5), the officer must, not later than the day after the day on which the warrant ceased to be in force or was executed, whichever is the earlier, give or send to the magistrate who signed the warrant the form of warrant completed by the officer and, if the information mentioned in subsection (3) was not sworn or affirmed, that information duly sworn or affirmed.
- (7) The magistrate must attach to the documents provided under subsection (6) the warrant signed by the magistrate.
- (8) A form of warrant that has been duly completed by a quarantine officer under subsection (5), and is in accordance with the terms of the warrant signed by the magistrate, is authority for any entry, search, seizure, or other exercise of power, that the warrant so signed authorises.
- (9) If:
  - (a) it is material, in any proceedings, for a court to be satisfied that an exercise of power was authorised under this section; and
  - (b) the warrant signed by the magistrate under this section authorising the exercise of power is not produced in evidence;

the court must assume, unless the contrary is proved, that the exercise of power was not authorised by such a warrant.

## **Division 5—Stopping and searching vessels or vehicles**

### **66AI Searches without warrant in emergency situations**

- (1) This section applies if a quarantine officer suspects, on reasonable grounds, that:
  - (a) particular evidential material is in or on a vessel or vehicle; and
  - (b) it is necessary to exercise a power under subsection (2) in order to prevent the evidential material being concealed, lost or destroyed; and
  - (c) it is necessary to exercise the power without the authority of a warrant under section 66AF because the circumstances are serious and urgent.
- (2) The quarantine officer may:
  - (a) stop and detain the vessel or vehicle; and
  - (b) search the vessel or vehicle and any thing in or on it for the evidential material; and
  - (c) seize the evidential material if he or she finds it there.
- (3) If, in the course of searching for the evidential material, the quarantine officer finds other evidential material, the officer may seize the other evidential material if he or she suspects, on reasonable grounds, that:
  - (a) it is necessary to seize it in order to prevent its concealment, loss or destruction; and
  - (b) it is necessary to seize it without the authority of a warrant under section 66AF because the circumstances are serious and urgent.
- (4) The quarantine officer must exercise his or her powers subject to section 66AJ.

### **66AJ How a quarantine officer exercises a power under section 66AI**

When a quarantine officer exercises a power under section 66AI in relation to a vessel or vehicle, he or she:

- (a) may use such assistance as is necessary; and

- (b) must search the vessel or vehicle in a public place or in some other place to which members of the public have ready access; and
- (c) must not detain the vessel or vehicle for longer than is necessary and reasonable to search it and any thing found in or on it; and
- (d) may use such force as is necessary and reasonable in the circumstances, but must not damage the vessel or vehicle or any thing found in or on it by forcing open a part of the vessel or vehicle or thing unless:
  - (i) the person (if any) apparently in charge of the vessel or vehicle has been given a reasonable opportunity to open that part or thing; or
  - (ii) it is not possible to give that person such an opportunity.

## **Division 6—General rules about premises and warrants**

### **66AK Availability of assistance, and use of force, in executing a warrant**

In executing a warrant:

- (a) the executing officer may obtain such assistance as is necessary and reasonable in the circumstances; and
- (b) the executing officer, or a quarantine officer who is assisting in executing the warrant, may use such force against persons and things as is necessary and reasonable in the circumstances; and
- (c) a person who is not a quarantine officer, but has been authorised to assist in executing the warrant, may use such force against things as is necessary and reasonable in the circumstances.

### **66AL Announcement before entry under warrants**

- (1) The executing officer must, before any person enters premises under a warrant:
  - (a) announce that he or she is authorised by the warrant to enter the premises; and

- (b) give any person at the premises an opportunity to allow entry to the premises.
- (2) The executing officer does not have to comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the premises is required to ensure:
  - (a) the safety of a person (including the executing officer); or
  - (b) that the effective execution of the warrant is not frustrated.

**66AM Details of warrant to be given to occupier etc.**

- (1) If a warrant in relation to premises is being executed and the occupier of the premises, or another person who apparently represents the occupier, is present at the premises, the executing officer or an officer assisting must make a copy of the warrant available to that person.
- (2) The executing officer must identify himself or herself to the person at the premises.
- (3) The copy of the warrant referred to in subsection (1) need not include the signature of the magistrate who issued the warrant.

**66AN Occupier to be present during search under warrants**

- (1) If a warrant issued in relation to premises is being executed and the occupier of the premises, or another person who apparently represents the occupier, is present at the premises, the person is, subject to Part 1C of the *Crimes Act 1914*, entitled to observe the search being conducted.
- (2) The right to observe the search being conducted ceases if the person impedes the search.
- (3) This section does not prevent 2 or more areas of the premises being searched at the same time.

**66AO Use of equipment to examine or process things**

- (1) A person who enters premises under this Part may bring to the premises and use any equipment reasonably necessary for the examination or processing of things found at the premises for the

purposes of exercising a power conferred on the person under this Part.

- (2) If:
  - (a) it is not practicable to examine or process the things at the premises; or
  - (b) the occupier of the premises consents in writing;
 the things may be moved to another place so that the examination or processing can be carried out.
- (3) If things containing electronically stored information are moved to another place under subsection (2), the person referred to in subsection (1) must, if it is practicable to do so:
  - (a) tell the occupier the address of the place and the time at which the examination or processing will be carried out; and
  - (b) allow the occupier, or a representative of the occupier, to be present during the examination or processing.
- (4) A person who enters premises under this Part may operate equipment already at the premises to carry out the examination or processing of a thing found at the premises for the purpose of exercising a power conferred on the person under this Part, if the person believes on reasonable grounds that:
  - (a) the equipment is suitable for the examination or processing; and
  - (b) the examination or processing can be carried out without damage to the equipment or the thing.

#### **66AP Use of electronic equipment at premises**

- (1) A person who enters premises under this Part may operate electronic equipment at the premises for the purpose of exercising a power conferred on the person under this Part if he or she believes on reasonable grounds that the operation of the equipment can be carried out without damage to the equipment.
- (2) If the person, after operating the equipment, finds that evidential material is accessible by doing so, he or she may:
  - (a) seize the equipment and any disk, tape or other associated device; or

- (b) if the material can, by using facilities at the premises, be put in documentary form—operate the facilities to put the material in that form and seize the documents so produced; or
  - (c) if the material can be transferred to a disk, tape or other storage device:
    - (i) which is brought to the premises; or
    - (ii) which is at the premises and the use of which for the purpose has been agreed to in writing by the occupier of the premises;operate the equipment or other facilities to copy the material to the storage device and take the storage device from the premises.
- (3) A person may seize equipment under paragraph (2)(a) only if:
  - (a) it is not practicable to put the material in documentary form as mentioned in paragraph (2)(b) or to copy the material as mentioned in paragraph (2)(c); or
  - (b) possession of the equipment by the occupier could constitute an offence.
- (4) If the person believes on reasonable grounds that:
  - (a) evidential material may be accessible by operating electronic equipment at the premises; and
  - (b) expert assistance is required to operate the equipment; and
  - (c) if he or she does not take action under this subsection, the material may be destroyed, altered or otherwise interfered with;he or she may do whatever is necessary to secure the equipment, whether by locking it up, placing a guard or otherwise.
- (5) The person must give notice to the occupier of the premises of his or her intention to secure equipment and of the fact that the equipment may be secured for up to 24 hours.
- (6) The equipment may be secured:
  - (a) for a period not exceeding 24 hours; or
  - (b) until the equipment has been operated by the expert; whichever happens first.

- (7) If the person believes on reasonable grounds that the expert assistance will not be available within 24 hours, he or she may apply to a magistrate for an extension of that period.
- (8) The person must give notice to the occupier of the premises of his or her intention to apply for an extension, and the occupier is entitled to be heard in relation to the application.

#### **66AQ Compensation for damage to equipment**

- (1) If:
  - (a) equipment is damaged because of being operated as mentioned in section 66AO or 66AP; and
  - (b) the damage was caused by:
    - (i) insufficient care being exercised in selecting the person who was to operate the equipment; or
    - (ii) insufficient care being exercised by the person (other than the occupier or a person employed by the occupier) operating the equipment;compensation for the damage is payable to the owner of the equipment.
- (2) Compensation is payable out of money appropriated by the Parliament for the purpose.
- (3) In determining the amount of compensation payable, regard is to be had to whether the occupier of the premises and the employees and agents of the occupier, if they were available at the time, had provided any warning or guidance as to the operation of the equipment that was appropriate in the circumstances.

#### **66AR Copies of seized things to be given**

- (1) Subject to subsection (2), if a person who enters premises under this Part seizes:
  - (a) a document, film, computer file or other thing that can readily be copied; or
  - (b) a storage device the information in which can readily be copied;

the person must, if asked to do so by the occupier of the premises or another person who apparently represents the occupier and is present when the seizure takes place, give a copy of the thing or the information to that person as soon as practicable after the seizure.

- (2) Subsection (1) does not apply if:
- (a) the thing has been seized under paragraph 66AP(2)(b) or taken under paragraph 66AP(2)(c); or
  - (b) possession by the occupier of the document, film, computer file, thing or information could constitute an offence.

### **66AS Retention of things that are seized**

- (1) Subject to any contrary order of a court, if a person seizes a thing under this Part, the person must return it if:
- (a) the reason for its seizure no longer exists or it is decided that it is not to be used in evidence; or
  - (b) the period of 60 days after its seizure ends;
- whichever first occurs, unless the thing is forfeited or forfeitable to the Commonwealth or is the subject of a dispute as to ownership.
- (2) At the end of the 60 days specified in paragraph (1)(b), the person must take reasonable steps to return the thing to the person from whom it was seized (or to the owner if that person is not entitled to possess it) unless:
- (a) proceedings in which the thing may be used in evidence were begun before the end of the 60 days and have not been completed (including an appeal to a court in relation to those proceedings); or
  - (b) the person may retain the thing because of an order under section 66AT; or
  - (c) the person is otherwise authorised or required (by a law, or an order of a court, of the Commonwealth, of a State or of a Territory) to retain, destroy or dispose of the thing.

### **66AT Magistrate may permit a thing to be kept**

- (1) If a person seizes a thing under this Part; and:
- (a) before the end of 60 days after the seizure; or

- (b) before the end of a period previously stated in an order of a magistrate under this section;  
proceedings in which the thing may be used in evidence have not been brought, the person may apply to a magistrate for an order that he or she may keep the thing for a further period.
- (2) If the magistrate is satisfied that it is necessary for the person to continue to keep the thing:
- (a) for the purpose of an investigation as to whether an offence has been committed; or
  - (b) to enable evidence of an offence to be secured for the purposes of a prosecution;
- the magistrate may order that the person may keep the thing for a period stated in the order.
- (3) Before making the application, the person must:
- (a) take reasonable steps to discover who has an interest in the retention of the thing; and
  - (b) if it is practicable to do so, give notice of the proposed application to everyone who the person believes has such an interest.
- (4) A function of making an order conferred on a magistrate by this section is conferred on the magistrate in a personal capacity and not as a court or a member of a court.
- (5) Without limiting the generality of subsection (4), an order made by a magistrate under this section has effect only by this Act and is not taken, by implication, to be made by a court.
- (6) A magistrate performing a function of, or connected with, making an order under this section has the same protection and immunity as if he or she were performing that function as, or as a member of, a court (being the court of which the magistrate is a member).
- (7) The Governor-General may make arrangements with the Governor of a State or the Administrator of the Northern Territory for the performance, by all or any of the people who from time to time hold office as magistrates in that State or Territory, of the function of making orders under this section.
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- (8) The Prime Minister may make arrangements with the Chief Minister for the Australian Capital Territory for the performance, by all or any of the people who from time to time hold office as magistrates of that Territory, of the function of making orders under this section.

**66AU Release of seized goods**

The Secretary may authorise any evidential material seized under this Part to be released to the owner, or to the person from whose possession it was seized, either unconditionally or on any conditions that the Secretary thinks fit.

**66AV Quarantine officer must produce identity card**

A quarantine officer may not exercise any powers under this Part in relation to premises (other than premises entered under a warrant) if:

- (a) the occupier of the premises has required the officer to produce his or her identity card for inspection by the occupier; and
- (b) the officer fails to comply with the requirement.

**66AW Giving of consent**

- (1) Before obtaining the consent of a person for the purposes of entering premises under section 66AB or 66AE, a quarantine officer must tell the person that the person may refuse to give consent.
- (2) An entry by a quarantine officer in consequence of the consent of a person is not lawful unless the person voluntarily consented to the entry.

**66AX Receipts for things seized or moved**

- (1) If a thing is seized under this Part, or moved under subsection 66AO(2), a quarantine officer must provide a receipt for it.
- (2) If 2 or more things are seized or moved, they may be covered in the one receipt.

## **222 Subsection 66B(1)**

Repeal the subsection, substitute:

- (1) A Director of Quarantine 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 goods; and
  - (b) the supervision, monitoring and testing of the person's compliance with those procedures.

## **223 Subsection 66B(3)**

Omit "the Secretary to the Department may, by written notice given to a party to the agreement other than the Commonwealth, cancel", substitute "a Director of Quarantine may, by written notice given to a party to the agreement other than the Commonwealth, cancel or vary".

## **224 Subsections 66B(4) and (6)**

Omit "under this Act".

## **225 Subsection 66B(7) (including the penalty)**

Repeal the subsection and penalty, substitute:

- (7) A party to a compliance agreement other than the Commonwealth is guilty of an offence if that party fails to ensure that any requirements imposed on that party under the agreement are complied with.

Maximum penalty: Imprisonment for 10 years.

- (8) In this section:

*procedures* includes:

- (a) the doing of anything under this Act; and
- (b) the doing of anything in connection with activities carried out in the performance of functions related to quarantine.

## **226 Saving of agreements**

An agreement purporting to have been entered into under section 66B of the *Quarantine Act 1908* and to be in force immediately before the commencement of this Schedule has effect as if:

- (a) it had been duly entered into by a Director of Quarantine under that section as amended by this Schedule; and
- (b) a reference in the agreement to the Secretary to the Department were a reference to a Director of Quarantine.

## **227 Section 67**

Repeal the section, substitute:

### **67 Penalties for certain acts done in contravention of Act**

*Illegal importation etc.*

- (1) A person is guilty of an offence if:
  - (a) the person imports or introduces into, or brings into any port or other place in, Australia or the Cocos Islands:
    - (i) any disease or pest; or
    - (ii) any substance or article containing a disease or pest; or
    - (iii) any animal, plant or other goods; and
  - (b) the person knows that the importation, introduction or bringing is in contravention of this Act.

Maximum penalty: Imprisonment for 10 years.

*Knowledge of contravention presumed to exist in relation to a thing that is concealed or misdescribed*

- (2) If:
    - (a) a person imports or introduces into, or brings into a port or other place in, Australia or the Cocos Islands any thing mentioned in subparagraph (1)(a)(i), (ii) or (iii); and
    - (b) the importation, introduction or bringing is a contravention of this Act; and
    - (c) the person:
      - (i) conceals the thing or its nature or condition; or
      - (ii) conceals a fact or matter relating to the thing or its nature or condition; or
-

- (iii) gives to a quarantine officer a false or misleading description of the thing;

it is presumed, in the absence of evidence to the contrary, that the person knew that the importation, introduction or bringing was such a contravention.

Note: The defendant bears an evidential burden of proof in respect of evidence to the contrary (see subsection 13(3) of the *Criminal Code*).

#### *Illegal removal*

- (3) A person is guilty of an offence if:
  - (a) the person removes any animal, plant or other goods:
    - (i) from a part of Australia to another part of Australia; or
    - (ii) from a part of the Cocos Islands to another part of the Cocos Islands; or
    - (iii) from Australia to the Cocos Islands; or
    - (iv) from the Cocos Islands to Australia; and
  - (b) the person knows that the removal is a contravention of this Act.

Maximum penalty: Imprisonment for 10 years.

#### *Knowledge of contravention presumed to exist in relation to goods that are concealed or misdescribed*

- (4) If:
  - (a) a person removes any animal, plant or other goods as mentioned in paragraph (3)(a); and
  - (b) the removal is a contravention of this Act; and
  - (c) the person:
    - (i) conceals the animal, plant or other goods or the nature or condition of the animal, plant or other goods; or
    - (ii) conceals a fact or matter relating to the animal, plant or other goods or relating to the nature or condition of the animal, plant or other goods; or
    - (iii) gives to a quarantine officer a false or misleading description of the animal, plant or other goods;

it is presumed, in the absence of evidence to the contrary, that the person knew that the removal was such a contravention.

Note: The defendant bears an evidential burden of proof in respect of evidence to the contrary (see subsection 13(3) of the *Criminal Code*).

*Non-compliance with condition of permit granted under Proclamation*

- (5) A person is guilty of an offence if:
- (a) the person fails to comply with a condition or restriction set out in a permit granted under a Proclamation made in accordance with subsection 13(2A); and
  - (b) the person is reckless as to whether or not the condition or restriction is complied with.

Maximum penalty: Imprisonment for 10 years.

*Hindering compliance with Act*

- (6) A person is guilty of an offence if the person:
- (a) does any act that hinders or prevents another person from complying with this Act; and
  - (b) is reckless as to whether or not the doing of that act hinders or prevents the other person from complying with this Act.

Maximum penalty: Imprisonment for 10 years.

**228 Section 67A (penalty)**

Repeal the penalty, substitute:

Maximum penalty: Imprisonment for 10 years.

**229 Sections 68, 68A and 69**

Repeal the sections, substitute:

**68 Effect of unlawful importation etc.**

*Circumstances in which section applies*

- (1) This section applies if:
- (a) any animals, plants or other goods are imported or introduced into, or brought into any port or other place in, Australia or the Cocos Islands; or

- (b) any animals, plants or other goods are removed:
    - (i) from a part of Australia to another part of Australia; or
    - (ii) from a part of the Cocos Islands to another part of the Cocos Islands; or
    - (iii) from Australia to the Cocos Islands; or
    - (iv) from the Cocos Islands to Australia; or
  - (c) any animals, plants or other goods are moved, interfered with or dealt with;
- in contravention of this Act.

*Seizure of goods*

- (2) A quarantine officer may seize the animals, plants or goods and, if they are seized:
  - (a) they are forfeited to the Commonwealth; and
  - (b) the quarantine officer must give a notice to a person referred to in subsection (4) stating that they have been seized and forfeited to the Commonwealth and that they will be sold, destroyed, exported from Australia or the Cocos Islands or otherwise disposed of in any way that a Director of Quarantine thinks appropriate; and
  - (c) a Director of Quarantine may cause the animals, plants or goods to be sold, destroyed, exported from Australia or the Cocos Islands or otherwise disposed of.

*Notice by Director of Quarantine where goods not seized*

- (3) If the animals, plants or goods have not been seized under subsection (2), a Director of Quarantine may give a notice to a person referred to in subsection (4) stating that they will be seized, sold, destroyed, exported from Australia or the Cocos Islands or otherwise disposed of in any way that the Director thinks appropriate unless, within a period set out in the notice:
  - (a) they are destroyed, exported from Australia or the Cocos Islands, as the case may be, or otherwise dealt with in a way set out in the notice; and
  - (b) any other requirements set out in the notice relating to the animals, plants or goods are complied with.

*Person to whom notice may be given*

- (4) A notice under subsection (2) or (3) may be given:
- (a) in respect of animals, plants or other goods imported as mentioned in paragraph (1)(a)—to the importer; or
  - (b) otherwise—to the owner, or the person in possession or control, of the animals, plants or goods.

*Notice must not require action involving unacceptably high level of risk*

- (5) A Director of Quarantine must not give a notice under subsection (3) if the Director is not satisfied that:
- (a) if the animals, plants or goods are dealt with in the way set out in the notice, there will be no unacceptably high level of quarantine risk; or
  - (b) the person will either comply with the notice or tell the Director within the period set out in the notice that the person does not wish to deal with the goods as required by the notice.

*Authorised action will not contravene Act*

- (6) If, the animals, plants or goods have not been released from quarantine, any movement of, interference with, or dealing with, them that is necessary to comply with the notice is not a contravention of this Act.

*Liability for things done before notice not affected*

- (7) Any civil or criminal liability of the person to whom a notice is given because of a contravention of this Act that occurred in relation to the animals, plants or goods before the notice is given is not affected by the giving of the notice.

*Further notice may be given*

- (8) At any time before the person to whom a notice under subsection (3) is given complies with the notice, a Director of Quarantine may give a further notice to the person amending or revoking the notice.

If the notice is amended, this section applies to the notice as amended in the same way as it applied to the original notice.

*If notice is not complied with*

- (9) If a notice is given to a person under subsection (3) within the period prescribed by the regulations for the purposes of this subsection, but the person:
- (a) does not comply with the notice within the period specified in it; or
  - (b) tells a Director of Quarantine within that period that the person does not wish to deal with the goods as required by the notice;
- the following provisions have effect:
- (c) the animals, plants or goods are forfeited to the Commonwealth; and
  - (d) an officer or an officer of Customs may seize them; and
  - (e) a Director of Quarantine may cause them to be sold, destroyed, exported from Australia or the Cocos Islands or otherwise disposed of.

## **68A Destruction of certain animals**

If:

- (a) an animal has been brought into a port or other place in Australia or the Cocos Islands but the animal was not intended, or is not permitted, to be imported into Australia or the Cocos Islands, as the case may be; and
  - (b) the master of a vessel or installation fails to comply with:
    - (i) a direction given by a Director of Quarantine with respect to the animal; or
    - (ii) any of the prescribed conditions relating to the giving of reports about the animal, or relating to the control or confinement of, or the giving of access to, the animal;
- a quarantine officer may destroy the animal.

**69 Seizure of animals, plants or other goods**

- (1) If any animals, plants or other goods that are subject to quarantine are found at a place other than a quarantine station:
  - (a) any officer or police officer may seize them; and
  - (b) if an officer or police officer does so—he or she must take them to a quarantine station or to such other place as a Director of Quarantine directs.
- (2) If an animal that is required to be kept under quarantine surveillance at a particular place (the *place of surveillance*) is found at another place:
  - (a) any officer or police officer may seize it; and
  - (b) if an officer or police officer does so—he or she must take it back to the place of surveillance or to such other place as a Director of Quarantine directs.
- (3) In this section:

*quarantine station*, in relation to an animal, plant or other goods, includes:

  - (a) a place approved under section 46A in relation to a class of animals, plants or other goods in which the animal, plant or other goods are included; and
  - (b) any other place where the animal, plant or other goods may be detained under this Act.

**230 Subsection 69A(1)**

Omit “section 48 or 58”, substitute “this Act”.

**231 Subsection 69A(4)**

After “disease”, insert “or pest”.

**232 Subsection 69A(6)**

Omit “section 48”, substitute “this Act”.

**233 Paragraph 69A(9)(b)**

After “disease”, insert “or pest”.

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## **234 Subsection 69A(12)**

Repeal the subsection, substitute:

- (12) A person is guilty of an offence if:
- (a) the person makes a statement that is false or misleading in a material particular; and
  - (b) the statement is made with the intention of obtaining pecuniary benefit for the person or for another person under this section; and
  - (c) the person knows the statement to be false or misleading in that particular.

Maximum penalty: Imprisonment for 5 years.

- (12A) A person is guilty of an offence if:
- (a) the person makes a statement that is false or misleading in a material particular; and
  - (b) the statement is made with the intention of obtaining pecuniary benefit for the person or for another person under this section; and
  - (c) the person is reckless as to whether or not the statement is false or misleading in that particular.

Maximum penalty: Imprisonment for 2 years.

- (12B) A person is guilty of an offence if:
- (a) the person does a fraudulent act; and
  - (b) the act is done with the intention of obtaining pecuniary benefit for the person or for another person under this section.

Maximum penalty: Imprisonment for 5 years.

## **235 Subsection 70(1)**

Omit “inspect” (wherever occurring), substitute “examine”.

Note: The heading to section 70 is omitted and replaced by “**Power to board vessels and examine things found on them**”.

## **236 Paragraphs 70(1)(d) and (e)**

Omit “or goods”, substitute “, plants or other goods”.

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**237 Subsection 70(2)**

Repeal the subsection, substitute:

- (2) The master of a vessel is guilty of an offence if:
- (a) he or she is required by a quarantine officer to produce to him or her for examination the papers referred to in paragraph (1)(e); and
  - (b) he or she fails to comply with the requirement.

Maximum penalty: 60 penalty units.

Note: Subsection (2) is not subject to the privilege against self incrimination but a use derivative-use indemnity applies (see subsections 79A(1) and (2)).

(2A) An offence against subsection (2) is an offence of strict liability.

**238 Subsection 70(3)**

Omit all the words after paragraph (b), substitute:

and may, after boarding the vessel, enter and examine any part of the vessel and all animals, plants or other goods on board the vessel.

**239 Section 70AA**

Before “goods” (wherever occurring), insert “other”.

**240 Section 70AA**

Omit “inspect” (wherever occurring), substitute “examine”.

Note: The heading to section 70AA is omitted and replaced by “**Power to board installations and examine things found on them**”.

**241 Subsection 70AA(3)**

Repeal the subsection, substitute:

- (3) The master of an installation to which this section applies is guilty of an offence if:
- (a) he or she is required by a quarantine officer to produce to him or her for examination the papers referred to in paragraph (2)(c); and
  - (b) he or she fails to comply with the requirement.

Maximum penalty: 60 penalty units.

Note: Subsection (3) is not subject to the privilege against self incrimination but a use derivative-use indemnity applies (see subsections 79A(1) and (2)).

(3A) An offence against subsection (3) is an offence of strict liability.

## **242 Section 70A**

Repeal the section, substitute:

### **70A Power to search goods**

- (1) A quarantine officer may search and examine any goods which, or which a quarantine officer believes on reasonable grounds:
  - (a) are about to be placed on, are on, or have been taken off or out of, an overseas vessel; or
  - (b) are on, or are about to be placed on, a vessel or installation in the Protected Zone or a Special Quarantine Zone that is about to travel to a place in Australia; or
  - (c) are on, or have been taken off or out of, a vessel or installation that has travelled to a place in Australia from or through a place in the Protected Zone or a Special Quarantine Zone.
- (2) A quarantine officer may ask a person who owns, is carrying or is otherwise associated with, or appears to the quarantine officer to be associated with, goods that the quarantine officer is searching or examining or entitled to search or examine under subsection (1) any question in respect of the goods relating to matters within the functions, duties or powers of the quarantine officer.
- (3) A person is guilty of an offence if:
  - (a) the person is asked a question under subsection (2); and
  - (b) the person fails to answer the question.

Maximum penalty: 60 penalty units.

- (4) A person is guilty of an offence if:
  - (a) the person answers a question asked under subsection (2); and

- (b) the answer contains a statement that the person knows to be false or misleading in a material particular.

Maximum penalty: Imprisonment for 2 years.

- (5) An offence against subsection (3) is an offence of strict liability.

Note: This section is subject to the privilege against self incrimination (see subsection 79A(3)).

**243 After subsection 70B(2)**

Insert:

Note: It is an offence to fail to answer, or to give a false or misleading answer to, a question asked under this subsection (see section 74C).

**244 Subsection 70B(3)**

Omit “or other records” (wherever occurring).

**245 After subsection 70B(3)**

Insert:

Note: It is an offence to fail to produce, or to fail to correct false or misleading information in, a document required to be produced under this subsection (see section 74C).

**246 Subsection 70B(4)**

Omit “in contact with”, substitute “exposed to”.

**247 After subsection 70B(4)**

Insert:

Note: It is an offence to fail to deliver a sample required to be delivered under this subsection (see section 74C).

**248 Subsections 70B(5) and (6)**

Repeal the subsections, substitute:

- (5) A quarantine officer may make copies of, or take extracts from, any documents produced under subsection (3) and, for the purpose of making a copy of, or taking an extract from, a document, may remove the document from the place at which it was produced.

- (6) A quarantine officer may carry out tests on any samples delivered under subsection (4).

## **249 Section 70C**

Repeal the section, substitute:

### **70BA Carrying out tests on samples**

If a quarantine officer has power under this Act to carry out tests on any samples, the officer has power to carry out tests that result in the destruction, or reduce the value, of the samples or of a package or goods associated with the samples.

### **70BB Officers may be assisted by animals**

- (1) A quarantine officer is entitled to be accompanied by, and make use of, an animal to help the officer in:
- (a) exercising the power to enter and search a quarantine station, a quarantine area, a place approved under section 46A or another place at which animals, plants or other goods may be detained under this Act; or
  - (b) examining or inspecting any vessel, installation, premises, vehicle, animals, plants or other goods.
- (2) Subsection (1) does not apply unless:
- (a) the quarantine officer is authorised by a Director of Quarantine to handle animals in the performance of his or her functions or duties; and
  - (b) the animal is under the effective control of the quarantine officer.
- (3) If the quarantine officer is exercising a power under a warrant, subsection (1) does not apply unless the use of the animal is authorised by the warrant.

### **70C Offences in relation to goods or vessel**

*False or misleading statement*

- (1) A person is guilty of an offence if:
-

- (a) the person makes a statement to a quarantine officer in respect of goods; and
- (b) the person knows that the statement is false or misleading in a material particular.

Maximum penalty: Imprisonment for 2 years.

*Concealment of condition of vessel or nature of goods*

- (2) A person is guilty of an offence if the person conceals from a quarantine officer the condition of a vessel or the nature of any goods, or any fact or matter relating to the condition of a vessel or the nature of any goods.

Maximum penalty: Imprisonment for 2 years.

*Possession or conveyance of illegally imported goods*

- (3) A person is guilty of an offence if:
  - (a) the person has in his or her possession, or conveys, any goods; and
  - (b) the goods have been imported, introduced or otherwise brought into Australia or the Cocos Islands in contravention of this Act.

Maximum penalty: Imprisonment for 2 years.

**70CA False or misleading statements about approvals, permits, compliance agreements etc.**

*Making of statements known to be false or misleading*

- (1) A person is guilty of an offence if:
  - (a) the person makes an oral or written statement:
    - (i) that an instrument under this Act has been given to, or on the application of, the person; or
    - (ii) that an instrument under this Act given to, or on the application of, the person is in force; or
    - (iii) as to the terms of an instrument under this Act given to, or on the application of, the person; or

- (iv) as to any conditions to which an instrument mentioned in subparagraph (iii) is subject; or
- (v) that the person is a party to a compliance agreement; or
- (vi) as to the terms of a compliance agreement to which the person is a party; or
- (vii) as to any conditions to which a compliance agreement mentioned in subparagraph (vi) is subject; and
- (b) the statement is false or misleading in a material particular; and
- (c) the person knows that the statement is false or misleading in that particular.

Maximum penalty: Imprisonment for one year.

*Negligently making false or misleading statements*

- (2) A person is guilty of an offence if:
  - (a) the person makes an oral or written statement:
    - (i) that an instrument under this Act has been given to, or on the application of, the person; or
    - (ii) that an instrument under this Act given to, or on the application of, the person is in force; or
    - (iii) as to the terms of an instrument under this Act given to, or on the application of, the person; or
    - (iv) as to any conditions to which an instrument mentioned in subparagraph (iii) is subject; or
    - (v) that the person is a party to a compliance agreement; or
    - (vi) as to the terms of a compliance agreement to which the person is a party; or
    - (vii) as to any conditions to which a compliance agreement mentioned in subparagraph (vi) is subject; and
  - (b) the statement is false or misleading in a material particular; and
  - (c) the person is negligent as to whether or not the statement is false or misleading in that particular.

Maximum penalty: Imprisonment for 6 months.

*Definition*

- (3) In this section:

*instrument under this Act* means an approval, authorisation, permission or permit under this Act.

**250 Subsection 70D(3) (including the penalty)**

Repeal the subsection and penalty, substitute:

- (3) A person is guilty of an offence if:
- (a) a direction is given to the person under subsection (1) or (2);  
and
  - (b) the person fails to comply with the direction.

Maximum penalty: Imprisonment for 2 years.

**251 After section 70D**

Insert:

**70E Directions to people in a quarantine station**

- (1) For the purpose of achieving the object referred to in section 4, a quarantine officer who is in charge of a quarantine station may give directions to a person in the quarantine station.
  - (2) For the purpose of achieving the object referred to in section 4, a quarantine officer may give directions to a person who is in a place approved under section 46A.
  - (3) Without limiting subsections (1) and (2), the directions that may be given under either of those subsections to a person in a quarantine station or a place approved under section 46A may include either or both of the following:
    - (a) a direction to leave the quarantine station or place;
    - (b) a direction to subject himself or herself to such treatment as is required by the direction.
  - (4) A person is guilty of an offence if:
    - (a) a direction is given to the person under this section; and
    - (b) the person fails to comply with the direction.
-

Maximum penalty: Imprisonment for 2 years.

**252 Subsection 71(1) (including the penalty)**

Repeal the subsection and penalty, substitute:

- (1) A quarantine officer who boards a vessel:
  - (a) may remain on it for such period as the officer thinks necessary or desirable for the purpose of performing his or her duties; and
  - (b) may direct the master to provide suitable and sufficient food and sleeping accommodation for the officer.
- (1A) The master of a vessel is guilty of an offence if:
  - (a) a direction is given to the master under paragraph (1)(b); and
  - (b) the master fails to comply with the direction.

Maximum penalty: 10 penalty units.

- (1B) An offence against subsection (1A) is an offence of strict liability.

**253 Subsection 72(2) (penalty)**

Repeal the penalty, substitute:

Maximum penalty: 50 penalty units.

**254 Subsection 72(3) (penalty)**

Repeal the penalty, substitute:

Maximum penalty: 20 penalty units.

**255 Subsection 72(4) (penalty)**

Repeal the penalty, substitute:

Maximum penalty: 20 penalty units.

**256 Subsection 72(5) (penalty)**

Repeal the penalty, substitute:

Maximum penalty: 50 penalty units.

**257 At the end of subsection 72(5)**

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Add:

Note: This subsection is subject to the privilege against self incrimination (see subsection 79A(3)).

**258 Subsection 72(6) (penalty)**

Repeal the penalty, substitute:

Maximum penalty: 50 penalty units.

**259 After subsection 72(6)**

Insert:

(6A) An offence against subsection (2), (3), (4) or (6) is an offence of strict liability.

**260 Subsection 73(1) (penalty)**

Repeal the penalty, substitute:

Maximum penalty: Imprisonment for 2 years.

**261 Subsection 73(2) (penalty)**

Repeal the penalty, substitute:

Maximum penalty: Imprisonment for one year.

**262 Subsection 73(3)**

Omit all the words after “questions” (last occurring).

**263 After subsection 73(3)**

Insert:

(3A) A person is guilty of an offence if:

- (a) a requirement is made of the person under subsection (3); and
- (b) the person fails to comply with the requirement.

Maximum penalty: 50 penalty units.

(3B) An offence against subsection (3A) is an offence of strict liability.

Note: This section is subject to the privilege against self incrimination (see subsection 79A(3)).

**264 Subsection 74(1)**

Repeal the subsection, substitute:

- (1) A quarantine officer may affix any notices relating to quarantine that have been approved by a Director of Quarantine:
- (a) on any part of a vessel subject to quarantine; and
  - (b) on any goods subject to quarantine; and
  - (c) at or near any quarantine station or any place approved under section 46A; and
  - (d) in any quarantine area; and
  - (e) in any other place approved for the purposes of this Act or a provision of this Act.

**265 Saving of notices**

A notice prescribed for the purposes of subsection 74(1) of the *Quarantine Act 1908* immediately before the commencement of this Schedule is taken to have been approved by a Director of Quarantine for the purposes of subsection 74(1) substituted by item 264.

**266 Subsection 74(2) (penalty)**

Repeal the penalty, substitute:

Maximum penalty: 50 penalty units.

**267 After subsection 74(2)**

Insert:

- (2A) An offence against subsection (2) is an offence of strict liability.

**268 Section 74AA (penalty)**

Repeal the penalty, substitute:

Maximum penalty: 50 penalty units.

**269 At the end of section 74AA**

Add:

- (2) An offence against subsection (1) is an offence of strict liability.

**270 Sections 74AB, 74A, 74B, 74BA and 74C**

Repeal the sections, substitute:

**74BB Identity cards**

- (1) A Director of Quarantine may cause an identity card to be issued to an officer.
- (2) An identity card:
  - (a) is to incorporate a recent photograph of the officer to whom it is issued; and
  - (b) is to contain:
    - (i) the officer's signature; or
    - (ii) a unique number assigned to the officer by the Director who issued the identity card; and
  - (c) is to state that the officer is an officer appointed under this Act.
- (3) A person who ceases to be a quarantine officer must, as soon as practicable after so ceasing, return his or her identity card to a Director of Quarantine.
- (4) A person is guilty of an offence if:
  - (a) an identity card was issued to the person; and
  - (b) the person has ceased to be a quarantine officer; and
  - (c) the person fails to return the identity card as required by subsection (3).

Maximum penalty: One penalty unit.

**74BC Power to require information after entering premises with consent or under warrant**

- (1) Subject to subsection (2), a quarantine officer who has entered premises under subparagraph 66AB(1)(a)(iv) or paragraph 66AE(2)(b) or under a warrant under section 66AC, 66AF or 66AH may, to the extent that it is reasonably necessary for the purpose of deciding whether to exercise any power under this Act or finding out whether this Act has been complied with:

- (a) require a person to answer questions relating to the movement of people, vehicles or goods to or from the premises or otherwise relating to the prevention or control of the introduction, establishment or spread of a disease or pest; or
  - (b) require a person to produce any documents relating to the movement of people, vehicles or goods to or from the premises or otherwise relating to the prevention or control of the introduction, establishment or spread of a disease or pest, and inspect any documents so produced.
- (2) A quarantine officer is not entitled to make a requirement of a person under subsection (1) unless the officer produces his or her identity card for inspection by the person.

Note: This section is subject to the privilege against self incrimination (see subsection 79A(3)).

## **74C Non-compliance with requirements**

### *Failure to answer question or produce document*

- (1) A person is guilty of an offence if:
- (a) the person is asked a question or required to produce a document under subsection 70B(2) or (3) or 74BC(1); and
  - (b) the person fails to answer the question or produce the document.

Maximum penalty: Imprisonment for one year.

### *Failure to deliver sample*

- (2) A person is guilty of an offence if:
- (a) the person is required under subsection 70B(4) to deliver a sample; and
  - (b) the person fails to deliver the sample.

Maximum penalty: Imprisonment for one year.

### *Giving false or misleading answer to question*

- (3) A person is guilty of an offence if:

- (a) the person answers a question asked of him or her under subsection 70B(2) or (3) or 74BC(1); and
- (b) the answer contains a statement that the person knows to be false or misleading in a material particular.

Maximum penalty: Imprisonment for 2 years.

*Failure to correct false or misleading information in document*

- (4) A person is guilty of an offence if:
  - (a) the person produces to a Director of Quarantine or a quarantine officer a document that the person was required under this Act to produce; and
  - (b) the document contains a statement that the person knows to be false or misleading in a material particular; and
  - (c) the person does not:
    - (i) indicate to the person to whom the document is produced that it is false or misleading and the respect in which it is false or misleading; and
    - (ii) provide correct information to that person if the person producing the document is in possession of, or can reasonably acquire, the correct information.

Maximum penalty for an offence against this subsection:  
Imprisonment for 2 years.

Note: Subsections (1) and (2) are subject to the privilege against self incrimination (see subsection 79A(3)).

## 271 Saving of warrants, consents and notices

- (1) A warrant issued under section 74AB, 74A, 74B or 74BA of the *Quarantine Act 1908* that was in force immediately before the repeal of that section continues in force, and may be executed, as if that section had not been repealed.
- (2) A consent given by the occupier of any premises under section 74AB, 74A, 74B or 74BA of the *Quarantine Act 1908* before the repeal of that section that had not been revoked before that repeal is taken to have been given under the corresponding section of Part VIA of that Act inserted by this Schedule.

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- (3) A notice prescribed for the purposes of paragraph 74A(4)(d) of the *Quarantine Act 1908* immediately before the repeal of section 74A of that Act is taken to have been approved by a Director of Quarantine for the purposes of paragraph 66AA(1)(i) of that Act inserted by this Schedule.

## **272 Section 74D**

Repeal the section, substitute:

### **74D Powers relating to vessels and vehicles**

- (1) If a quarantine officer believes on reasonable grounds that a vessel or vehicle is carrying, or will carry, infected goods or goods subject to quarantine in a manner that could result in the introduction, establishment or spread of a disease or pest, the officer may give the master of the vessel or the person in control of the vehicle directions to take measures in respect of the vessel or vehicle, or the goods, that the officer thinks necessary to prevent the introduction, establishment or spread of the disease or pest.
- (2) The directions that may be given under subsection (1) include, without limiting the generality of that subsection, any of the following:
  - (a) directions relating to the movement of the vessel or vehicle (including a direction to cause the vessel or vehicle to stop);
  - (b) directions for the performance of work on the vessel or vehicle;
  - (c) directions for the treatment of the vessel, vehicle or goods.
- (3) A person is guilty of an offence if:
  - (a) a direction is given to the person under subsection (1); and
  - (b) the person fails to comply with the direction.

Maximum penalty: Imprisonment for 5 years.

- (4) In this section:

*infected goods* has the same meaning as in section 66AA.

**74DA Master or owner of vessel or installation ordered into quarantine may be directed to help officers**

- (1) A quarantine officer may direct the master or owner of a vessel or installation:
- (a) that is subject to quarantine; or
  - (b) on which a person is performing quarantine;
- to provide such help as is reasonable, and is stated in the direction, to any officer performing functions or duties or exercising powers under this Act in relation to the vessel or installation or in relation to any person who, or thing that, is on the vessel or installation.
- (2) A person is guilty of an offence if:
- (a) a direction is given to the person under this section; and
  - (b) the person fails to comply with the direction.

Maximum penalty: Imprisonment for 6 months.

**273 Subsection 74E(1) (penalty)**

Repeal the penalty, substitute:

Maximum penalty: Imprisonment for 6 months.

**274 Subsection 75(1) (including the penalty)**

Repeal the subsection and penalty, substitute:

- (1) A quarantine officer may require a person who is subject to quarantine or performing quarantine to submit himself or herself to vaccination or inoculation with any prophylactic or curative vaccine.
- (1A) A person is guilty of an offence if:
- (a) a requirement is made of the person under subsection (1); and
  - (b) the person fails to comply with the requirement.

Maximum penalty: 20 penalty units.

- (1B) An offence against subsection (1A) is an offence of strict liability.

**275 Subsection 75A(1) (at the end of paragraphs (a) and (b) of the definition of *approved person*)**

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Add “or”.

**276 Subsection 75A(1) (paragraphs (c) and (d) of the definition of *approved person*)**

Repeal the paragraphs, substitute:

(c) a police officer; or

**277 Subsection 75A(1) (definition of *officer of Customs*)**

Repeal the definition.

**278 Subsection 75A(1) (paragraph (b) of the definition of *prescribed vessel*)**

Repeal the paragraph, substitute:

(b) an aircraft.

**279 At the end of paragraphs 75A(2)(a), (b), (c), (d) and (e)**

Add “and”.

**280 Paragraph 75A(2)(b)**

Omit “a vessel used in navigation by air”, substitute “an aircraft”.

**281 Paragraph 75A(2)(e)**

Omit “50”, substitute “20D”.

**282 Subsection 75A(6)**

Omit “a fine not exceeding \$20,000 or imprisonment for a period not exceeding 10 years, or both”, substitute “imprisonment for not more than 10 years”.

**283 Subsection 75B(1)**

Omit “oversea”, substitute “overseas”.

**284 Subsection 75B(2) (definition of *prescribed overseas vessel*)**

Repeal the definition.

**285 Subsection 75B(2)**

Insert:

*prescribed overseas vessel* means an overseas vessel (other than a vessel detained under section 75A or an overseas aircraft) the maximum overall length of the hull proper of which is 45 metres or less.

## 286 Sections 76, 77 and 78

Repeal the sections, substitute:

### 76 Unauthorised entry on quarantine station etc.

#### *Definition*

(1) In this section:

*relevant act* means any of the following:

- (a) entering or trespassing on, or leaving, a quarantine station or quarantine area;
- (b) taking any animal, plant or other goods into or out of a quarantine station or quarantine area;
- (c) interfering with any animals, plants or other goods that are subject to quarantine.

#### *Offence to act without permission*

(2) A person is guilty of an offence if:

- (a) the person does a relevant act; and
- (b) the person does not have the written permission of a quarantine officer to do the act.

Maximum penalty: Imprisonment for 2 years.

#### *Offence to contravene condition of permission*

(3) A person is guilty of an offence if:

- (a) the person does a relevant act; and
- (b) the person has the written permission of a quarantine officer to do the act; and
- (c) the permission is subject to a condition; and

- (d) the condition is contravened; and
- (e) the person is reckless as to whether or not the condition is contravened.

Maximum penalty: Imprisonment for 2 years.

*Power to give permissions*

- (4) A quarantine officer has power to give to a specified person, or to persons included in a specified class of persons, written permission to do one or more relevant acts or to do one or more relevant acts during a specified period.

*Power to detain unauthorised persons*

- (5) If an unauthorised person:
  - (a) enters a quarantine station while anyone is performing quarantine at the station; or
  - (b) enters a quarantine area;a quarantine officer may:
  - (c) detain the person at the quarantine station for the performance of quarantine, or detain the person in the quarantine area, as the case may be, and use any means reasonably necessary to detain the person; and
  - (d) give such directions to the person as are necessary to prevent or control the introduction, establishment or spread of a disease or pest.
- (6) A person is guilty of an offence if:
  - (a) a direction is given to the person under subsection (5); and
  - (b) the person fails to comply with the direction.

Maximum penalty: Imprisonment for 2 years.

## **77 Pilot wrongly conducting vessel subject to quarantine**

A pilot who conducts a vessel that is subject to quarantine into a place that is not the proper place for a vessel subject to quarantine is guilty of an offence.

Maximum penalty: Imprisonment for 5 years.

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Note: The pilot will not be guilty of an offence if the conducting of the vessel to the place was due to sudden or extraordinary emergency (see section 10.3 of the *Criminal Code*).

**78 Master not to allow vessel to enter port other than first port of entry if quarantinable disease or pest on board**

The master of a vessel is guilty of an offence if:

- (a) the master knows that a quarantinable disease or quarantinable pest exists on the vessel; and
- (b) the master causes or permits the vessel to enter a port other than a port declared to be a first port of entry.

Maximum penalty: Imprisonment for 10 years.

Note: The master will not be guilty of an offence if the entry of the vessel to the port was due to circumstances of sudden or extraordinary emergency (see section 10.3 of the *Criminal Code*).

**287 Subsection 78A(1) (definition of *Commonwealth*)**

Repeal the definition.

**288 Subsection 78A(1) (paragraph (d) of the definition of *vessel*)**

After “port”, insert “or other place”.

**289 Subsections 78A(2), (3) and (4) (including the note to subsection (4))**

Repeal the subsections and note, substitute:

- (2) If a quarantine officer believes, on reasonable grounds, that a vessel or installation is in an insanitary condition, or is likely to be carrying diseases or pests, the quarantine officer may give a direction to the owner or master of the vessel or installation requiring a specified process to be carried out in respect of the vessel or installation in the manner specified in the direction.
- (3) Without limiting subsection (2):
  - (a) the process that may be specified in a direction given under that subsection includes:

- (i) subjecting the vessel or installation to specified treatment; and
  - (ii) storing, discharging, removing, treating or disposing of refuse, organic waste, dunnage, sweepings from the hold or ballast water; and
  - (iii) keeping food in a hygienic condition; and
  - (iv) treating any thing on the vessel or installation; and
  - (v) moving any people on the vessel or installation to a different part of the vessel or installation or causing them to disembark; and
  - (vi) embarking people on to the vessel or installation; and
  - (vii) moving or securing any goods on the vessel or installation or causing them to be unloaded; and
  - (viii) loading goods on to the vessel or installation; and
  - (ix) producing samples of, or exchanging or treating, ballast water in the vessel; and
  - (b) the direction may specify where the specified process is to be carried out.
- (4) A person is guilty of an offence if:
- (a) the person is given a direction under subsection (2); and
  - (b) the person fails to comply with the direction.

Maximum penalty: Imprisonment for 2 years.

Note: The heading to section 78A is replaced by the heading “**Treatment of vessels and installations that are believed to be in an insanitary condition or to be likely to be carrying diseases or pests**”.

## **290 Saving of orders**

An order given under section 78A of the *Quarantine Act 1908* that was in force immediately before the commencement of this Schedule continues in force as if it were a direction given under that section as amended by this Schedule.

## **291 After section 78A**

Insert:

**78AA Treatment of vessel or installation subject to quarantine**

(1) If:

- (a) a vessel or installation is subject to quarantine; or
- (b) a person who is subject to quarantine is on board a vessel or installation;

a quarantine officer may give to the master of the vessel or installation a direction requiring a specified process to be carried out in respect of the vessel or installation in the manner specified in the direction.

(2) Without limiting subsection (1):

- (a) the process that may be specified in a direction under that subsection includes:
  - (i) subjecting the vessel or installation to specified treatment; and
  - (ii) storing, discharging, removing, treating or disposing of refuse, organic waste, dunnage, sweepings from the hold or ballast water; and
  - (iii) keeping food in a hygienic condition; and
  - (iv) treating any thing on the vessel or installation; and
  - (v) moving any people on the vessel or installation to a different part of the vessel or installation or causing them to disembark; and
  - (vi) embarking people on to the vessel or installation; and
  - (vii) moving or securing any goods on the vessel or installation or causing them to be unloaded; and
  - (viii) loading goods on to the vessel or installation; and
  - (ix) producing samples of, or exchanging or treating, ballast water in the vessel; and
- (b) the direction may specify where the specified process is to be carried out.

(3) A person is guilty of an offence if:

- (a) a direction is given to the person under subsection (1); and
- (b) the person fails to comply with the direction.

Maximum penalty: Imprisonment for 2 years.

**292 Section 78B**

Omit “subsection (1) of section 78A”, substitute “subsection 78A(2) or 78AA(1)”.

**293 Section 78B (penalty)**

Repeal the penalty, substitute:

Maximum penalty: Imprisonment for 2 years.

**294 After section 78B**

Insert:

**78C Moving an insanitary vessel**

- (1) If a quarantine officer believes, on reasonable grounds, that:
  - (a) a vessel that is in a port or other place is in an insanitary condition or is carrying diseases or pests; and
  - (b) if quarantine measures are not taken there will be an unacceptably high level of quarantine risk;the officer may do either or both of the following:
  - (c) cause the vessel to be moved to another place;
  - (d) cause cargo or other goods or any other thing on the vessel to be removed from the vessel to another place.
- (2) A person is guilty of an offence if:
  - (a) either of the following happens:
    - (i) a vessel is moved to a place under paragraph (1)(c);
    - (ii) cargo or other goods or any other thing on a vessel is removed from the vessel to a place under paragraph (1)(d); and
  - (b) the person causes the vessel to be moved from the place mentioned in subparagraph (a)(i) or causes the cargo or other goods or other thing on the vessel to be removed from the place mentioned in subparagraph (a)(ii), as the case may be, without the permission of a quarantine officer.

Maximum penalty: Imprisonment for 2 years.

**295 After section 79**

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Insert:

**79A Exclusion of privilege against self incrimination in certain circumstances**

*Person not entitled to refuse to give information or documents under certain provisions of the Act*

- (1) A person is not entitled to refuse to answer a question, give information or produce a document that he or she is required to answer, give or produce by or under section 27A, 27B or 28 or subsection 70(2) or 70AA(3) on the ground that the answer, the information or the production of the document, as the case may be, might tend to incriminate him or her.

*Use derivative-use indemnity applies to information or documents*

- (2) However, any answer or information so given or the production of such a document, and any information or thing (including any document) obtained as a direct or indirect result of the giving of the answer or information or the production of the document, is not admissible in evidence against the person in:
- (a) any criminal proceedings other than a proceeding for an offence against subsection 27A(6) or (7), 27B(5) or (6), 28(8) or (9) or 74C(4); or
  - (b) any civil proceedings.

*Privilege not otherwise affected*

- (3) Except as provided by subsection (1), nothing in this Act affects the right of a person to refuse to answer a question, give information, or produce a document or thing, on the ground that the answer to the question, the information, or the production of the document or thing, might tend to incriminate him or her or make him or her liable to a penalty.

**296 Paragraph 80(a)**

Omit “wilfully”.

**297 Paragraph 80(b)**

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Omit “knowingly and”.

**298 Section 80**

Omit “indictable”.

**299 Subsection 81(1) (penalty)**

Repeal the penalty, substitute:

Maximum penalty: Imprisonment for 5 years.

**300 Subsection 81(2)**

Repeal the subsection.

Note: The heading to section 81 is replaced by the heading “**Bribing or attempting to influence officer**”.

**301 Sections 82, 83, 84 and 85**

Repeal the sections, substitute:

**82 Protection from civil proceedings**

- (1) The Minister, a Director of Quarantine, an officer, an analyst, an authorised person or an approved person referred to in section 75A or 75B is not liable to any action, suit or other civil proceeding for or in relation to anything done or omitted to be done in good faith (whether negligently or not) by the Minister, Director, officer, authorised person or approved person in the performance or purported performance of any function or duty, or the exercise or purported exercise of any power, conferred on the Minister, Director, officer, authorised person or approved person under this Act.
- (2) A quarantine officer is not liable to any action, suit or other civil proceeding in relation to:
  - (a) anything done by an animal used by the officer; or
  - (b) anything done or omitted to be done (whether negligently or not) by a person providing or purporting to provide help as a result of a request made by the officer;

in the performance or purported performance of any function or duty, or the exercise or purported exercise of any power, conferred on the officer under this Act.

- (3) A person who is requested or directed by a quarantine officer to provide help to the officer:
- (a) in the performance or purported performance of any function or duty; or
  - (b) in the exercise or purported exercise of any power;
- conferred on the officer under this Act is not liable to any action, suit or other civil proceeding for or in relation to anything done or omitted to be done in good faith (whether negligently or not) by the person in the provision or purported provision of the help.

### **83 Master, medical officer or agent misleading quarantine officer**

The master, a medical officer or an agent of:

- (a) a vessel; or
  - (b) an Australian installation; or
  - (c) a resources installation that is in Australian waters for the purpose of becoming attached to the Australian seabed; or
  - (d) a sea installation that is in Australian waters for the purpose of becoming installed in an adjacent area or in a coastal sea;
- is guilty of an offence if the master, medical officer or agent, as the case may be:
- (e) makes, in an answer to a question asked of him or her by a quarantine officer under this Act, a statement that he or she knows to be false or misleading in a material particular; or
  - (f) misleads a quarantine officer who is performing duty as such an officer.

Maximum penalty: Imprisonment for 5 years.

### **84 Maliciously ordering vessel etc. into quarantine**

A quarantine officer who maliciously orders any vessel, installation or person, or any animal, plant or other goods, into quarantine is guilty of an offence.

Maximum penalty: Imprisonment for 5 years.

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**302 Section 86D**

Repeal the section.

**303 Before section 86E**

Insert:

**86DA Evidence of analyst***Appointment of analyst*

- (1) The Secretary may appoint a person to be an analyst for the purposes of this Act.

*Analyst's certificate to be evidence*

- (2) Subject to subsection (4), in any proceedings for an offence against this Act, a certificate of an analyst in a form approved by a Director of Quarantine stating, in respect of any substance or thing in relation to which the offence is alleged to have been committed, all or any of the following matters:
- (a) that the analyst signing the certificate is appointed under subsection (1);
  - (b) when and from whom the substance or thing was received;
  - (c) what, if any, labels or other means of identifying the substance or thing accompanied it when it was received;
  - (d) what container or containers the substance or thing was contained in when it was received;
  - (e) a description, and the weight, of the substance or thing received;
  - (f) when the substance or thing, or a portion of it, was analysed;
  - (g) a description of the method of analysis;
  - (h) the results of the analysis;
  - (i) how the substance or thing was dealt with after handling by the analyst, including details of:
    - (i) the quantity retained; and
    - (ii) the name of the person, if any, to whom any retained quantity was given; and
    - (iii) measures taken to secure any retained quantity;
-

is admissible as prima facie evidence of the matters in the certificate and of the correctness of the result of the analysis.

*Proof of certificate*

- (3) For the purposes of this section, a document purporting to be a certificate referred to in subsection (2) is, unless the contrary is established, to be taken to be such a certificate and to have been duly given.

*Copy of certificate to be given to defendant or defendant's solicitor*

- (4) A certificate must not be admitted in evidence under subsection (2) in proceedings for an offence unless the person charged with the offence or a solicitor who has appeared for the person in those proceedings has, at least 14 days before the certificate is sought to be so admitted, been given a copy of the certificate together with reasonable notice of the intention to produce the certificate as evidence in the proceedings.

*Analyst may be required to attend for cross-examination*

- (5) Subject to subsection (6), if, under subsection (2), a certificate of an analyst is admitted in evidence in proceedings for an offence, the person charged with the offence may require the analyst to be called as a witness for the prosecution and the analyst may be cross-examined as if he or she had given evidence of the matters stated in the certificate.

*Notice to be given to prosecutor*

- (6) Subsection (5) does not entitle a person to require an analyst to be called as a witness for the prosecution unless:
- (a) the prosecutor has been given at least 4 days notice of the person's intention to require the analyst to be so called; or
  - (b) the Court, by order, allows the person to require the analyst to be so called.

**304 Subsection 86E(1)**

Omit "in respect of", substitute "for or in relation to the doing of anything in connection with".

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**305 Paragraphs 86E(1)(a) and (b)**

Repeal the paragraphs, substitute:

- (a) specified examinations or services carried out or provided under this Act; and
- (b) the issue by quarantine officers of specified certificates under this Act; and

**306 Paragraph 86E(1)(c)**

After “Islands”, insert “or at a place approved under section 46A”.

**307 Paragraph 86E(1)(d)**

Repeal the paragraph, substitute:

- (d) the giving of approvals by a Director of Quarantine under subsection 44A(5) or 46A(1); and
- (e) the giving of permissions and permits under this Act; and
- (f) the entering into compliance agreements.

**308 Subsection 86E(2AB)**

Omit “in accordance with an agreement”.

**309 Subsection 86E(2E)**

After “quarantine station”, insert “or at a place approved under section 46A”.

**310 At the end of paragraph 86E(2E)(b)**

Add “or place”.

**311 At the end of section 86E**

Add:

- (5) A Director of Quarantine may determine that a fee is not payable, in circumstances set out in the determination, for or in relation to the doing of anything in connection with a quarantine service. A determination has effect according to its terms.

**312 Before section 87**

Insert:

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**86G Application of the *Criminal Code***

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

**313 Paragraph 87(1)(e)**

After “arises”, insert “, or of a quarantinable pest which occurs,”.

**314 Paragraphs 87(1)(f), (g) and (h)**

After “disease”, insert “or pests”.

**315 At the end of paragraph 87(1)(j)**

Add “or quarantinable pests”.

**316 Paragraph 87(1)(k)**

Repeal the paragraph, substitute:

- (k) for regulating the discharge or removal from a vessel of any thing, for example, ballast water, refuse, and equipment or things used for purposes associated with the transportation of animals, plants or other goods;

**317 Saving of regulations**

Any regulations made under paragraph 87(1)(k) of the *Quarantine Act 1908* that were in force immediately before the commencement of this Schedule continue in force as if they had been made under paragraph 87(1)(k) substituted by item 316.

**318 Paragraph 87(1)(la)**

After “disease”, insert “or pests”.

**319 Paragraph 87(1)(lb)**

Repeal the paragraph, substitute:

- (lb) for requiring, or requiring arrangements to be made for, the treatment of, or the taking of other measures of quarantine in relation to, aircraft before or after they land in Australia or the Cocos Islands;

**320 Saving of regulations**

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Any regulations made under paragraph 87(1)(lb) of the *Quarantine Act 1908* that were in force immediately before the commencement of this Schedule continue in force as if they had been made under paragraph 87(1)(lb) substituted by item 319.

**321 Subparagraph 87(1)(qa)(ii)**

After “agents”, insert “or pests”.

**322 Paragraphs 87(1)(ra) and (rb)**

Repeal the paragraphs, substitute:

(ra) for prescribing matters relating to:

- (i) the making of an application for any of the following (however described), a permission, permit, authorisation or approval under this Act, the regulations, a Proclamation under this Act or a compliance agreement; and
- (ii) the procedures for consideration of such an application and the grant or refusal of the application; and
- (iii) the making of an order, determination or declaration under this Act, the regulations, a Proclamation under this Act or a compliance agreement; and
- (iv) the giving of a notice or direction, or the making of any other requirement, under this Act, the regulations, a Proclamation under this Act or a compliance agreement;

(rb) for prescribing the manner in which any permission, permit, authorisation, approval, notice, direction, requirement or other instrument granted or given, or any order, determination, declaration or other instrument made, under this Act, the regulations, a Proclamation under this Act or a compliance agreement may be produced to a person or body.

**323 Saving of regulations**

Any regulations made under paragraph 87(1)(ra) or (rb)) of the *Quarantine Act 1908* that were in force immediately before the commencement of this Schedule continue in force as if they had been made under paragraph 87(1)(ra) or (rb), as the case may be, substituted by item 322.

**324 Paragraph 87(1)(v)**

Omit “communicable diseases or diseases or pests affecting animals or plants”, substitute “diseases or pests”.

**325 Subsection 87(1B)**

Omit “animal or plant diseases” (wherever occurring), substitute “diseases or pests”.

**326 Subparagraph 87(1B)(a)(i)**

Omit “and search”, substitute “, search and examine”.

**327 Paragraph 87(1B)(e)**

After “diseases”, insert “or pests”.

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*[Minister’s second reading speech made in—  
House of Representatives on 3 December 1998  
Senate on 29 March 1999]*

(228/98)

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