

Quarantine Amendment Act (No. 2) 1979

No. 105 of 1979

An Act to amend the *Quarantine Act* 1908.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:

1. (1) This Act may be cited as the *Quarantine Amendment Act* (No. 2) 1979.¹ Short title,
&c.

(2) The *Quarantine Act* 1908² is in this Act referred to as the Principal Act.

2. This Act shall come into operation on the day on which it receives the Royal Assent.¹ Commence-
ment

3. Section 18A of the Principal Act is repealed.

Reports by
persons
subject to
quarantine

4. Section 48 of the Principal Act is amended by inserting in sub-section (2) “treated or” after “effectively”. Goods
ordered into
quarantine

5. Section 57 of the Principal Act is repealed.

Power to
destroy
diseased
animals

6. After section 69 of the Principal Act the following section is inserted:

“69A. (1) Subject to this section, where any goods (including any animal or plant) are destroyed in accordance with section 48 or 58, the Minister may, if he considers it appropriate to do so, approve the payment of compensation under this section in respect of those goods. Compen-
sation for
destroyed
goods

“(2) The Minister shall not approve the payment of compensation under this section in respect of—

(a) goods unlawfully imported into Australia; or

(b) goods lawfully imported into Australia that were in quarantine at all times between their importation and destruction, other than an animal destroyed at a quarantine station.

“(3) The Minister shall not approve the payment of compensation under this section in respect of goods where the Minister is satisfied, on reasonable grounds, that—

- (a) the goods were destroyed by reason of an act or omission in contravention of a law of the Commonwealth, a law of a State or a law of a Territory; and
- (b) a person who had, or was a member of a partnership that had, an interest in the goods at the time of their destruction—
 - (i) was a party to, or was in any way directly or indirectly concerned in, the act or omission;
 - (ii) had an interest in the goods at the time when the act or omission occurred and, at an earlier time, knew, ought to have known, or had reasonable grounds for suspecting, that the act or omission would occur; or
 - (iii) acquired an interest in the goods after the act or omission occurred and, at the time when he acquired that interest, knew, ought to have known, or had reasonable grounds for suspecting, that the act or omission had occurred.

“(4) Where an animal destroyed at a quarantine station had been lawfully imported into Australia and had been in quarantine at all times between its importation and destruction, the Minister shall not approve the payment of compensation under this section in respect of the animal if he is satisfied, on reasonable grounds, that, before the animal left its place of origin for exportation to Australia, the animal was infected, or was likely to be infected, with a disease for reasons relating to which the animal was destroyed.

“(5) Subject to this section, compensation approved under this section in respect of goods shall—

- (a) where there is only one owner of the goods—be paid to the owner; or
- (b) where there are two or more owners of the goods—be divided among those owners in accordance with their interests in the goods at the time of their destruction.

“(6) For the purposes of this section, where a quarantine officer who causes goods to be destroyed under section 48 knows, at the time of the destruction of the goods, the name and address of the owner or of any of the owners of the goods at that time, the quarantine officer shall cause written notice of the destruction of the goods to be given to that owner or each of those owners either personally or by post.

“(7) An owner is not entitled to compensation under this section in respect of goods unless a claim for compensation in respect of the goods is made by or on behalf of the owner within 12 months after—

- (a) if under sub-section (6) notice of the destruction of the goods is required to be given to him—that notice is given; or
- (b) in any other case—the goods are destroyed.

“(8) A claim for compensation under sub-section (7) shall be in a form approved by the Minister and shall be accompanied by such documents as are required by that form to accompany the claim.

“(9) The compensation payable under this section in respect of goods is an amount equal to—

- (a) except where paragraph (b) or (c) applies—the market value of the goods immediately before their destruction;
- (b) in the case of an animal (other than an animal to which paragraph (c) applies) destroyed by reason of the animal being infected, or suspected of being infected, with a disease—the market value that the animal would have had at the time of its destruction if it had not been infected or suspected of being infected; or
- (c) in the case of an animal imported into Australia that was in quarantine at all times between its importation and destruction—the sum of the market value of the animal in the country of export at the time of export and the charges for freight, maintenance or similar expenses in respect of the animal incurred after the animal left its place of origin for exportation to Australia and before its destruction.

“(10) If the Minister and the owner or the owners entitled to compensation under this section in respect of goods do not agree as to the market value or sum that, in accordance with sub-section (9), is to be the amount of that compensation, that market value or sum shall be determined by a person agreed upon by the Minister and by the owner or owners entitled to that compensation.

“(11) Where the Minister approves the payment of compensation under this section in respect of goods and—

- (a) the Minister and the owner or owners entitled to be paid that compensation agree on the market value or sum that, in accordance with sub-section (9), is to be the amount of that compensation; or
- (b) that market value or sum is determined in accordance with sub-section (10),

that amount of compensation is payable to the owner or owners so entitled and the amount so payable to the owner or an owner may be recovered by him by action against the Commonwealth in a court of competent jurisdiction.

“(12) A person shall not, for the purpose of obtaining pecuniary benefit for himself or any other person under this section—

- (a) make a false or misleading statement, knowing it to be false or misleading or not believing it to be true; or
- (b) do a fraudulent act.

Penalty: \$5,000.

“(13) For the purposes of this section—

- (a) goods subject to quarantine or ordered into quarantine shall be taken to be in quarantine;
- (b) where goods imported into Australia on a vessel are ordered into quarantine on, or soon after, the granting of pratique in relation to that vessel, the goods shall be deemed to have continued to be subject to quarantine during the period commencing when pratique was granted in relation to the vessel and ending when the goods were ordered into quarantine; and
- (c) where goods subject to quarantine or ordered into quarantine are released from quarantine for the purpose of exportation, the goods shall be deemed to continue to be in quarantine.

“(14) In this section, ‘owner’, in relation to goods that have been destroyed, means a person who, or a partnership which, had an interest in the goods at the time of their destruction, but does not include a person who had such an interest by reason only that he was entitled to the benefit of a mortgage or other charge, or a lien, in respect of the goods unless he was in possession of the goods at that time.”.

7. After section 70 of the Principal Act the following section is inserted:

Power to
search
baggage

“70A. (1) A quarantine officer may search any baggage that has been taken off or out of an overseas vessel (whether it is the baggage of a passenger or member of the crew of that vessel or of another vessel) or any goods that the quarantine officer believes, on reasonable grounds, to be such baggage.

“(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, baggage that the quarantine officer is searching or entitled to search under sub-section (1) any question in respect of that baggage relating to matters within the functions, duties or powers of the quarantine officer.

“(3) A person shall not—

- (a) without reasonable excuse, refuse or fail to answer a question put to him under sub-section (2); or
- (b) in answer to such a question, make a statement that is false or misleading in a material particular.

Penalty: \$2,000.

“(4) In this section—

‘baggage’, in relation to an overseas vessel, includes any parcel or other goods that a passenger or member of the crew of the vessel has had with him on the vessel;

‘member of the crew’ includes—

- (a) in relation to a ship—the master, a mate or an engineer of the ship; and
- (b) in relation to an aircraft—the pilot of the aircraft.”.

8. After section 74 of the Principal Act the following sections are inserted:

“74A. (1) A quarantine officer may, with the consent of the occupier of any premises, enter the premises and exercise the functions of a quarantine officer under this section in relation to those premises. Quarantine Warrants, &c.

“(2) Where a quarantine officer has reason to believe that premises contain infected goods, the quarantine officer may make an application to a Justice of the Peace for a warrant (to be known as a ‘Quarantine Warrant’) authorizing the quarantine officer to enter the premises and to exercise the functions of a quarantine officer under this section in relation to those premises.

“(3) If, on an application under sub-section (2), the Justice of the Peace is satisfied, by information on oath or affirmation, that there is reasonable ground for believing that the premises to which the application relates are premises on which there are infected goods, the Justice of the Peace shall grant a Quarantine Warrant authorizing the quarantine officer, with such assistance as the quarantine officer thinks necessary, to enter the premises, during such hours of the day or night as the warrant specifies, or, if the warrant so specifies, at any time, if necessary by force, and to exercise the functions of a quarantine officer under this section in relation to those premises.

“(4) The functions of a quarantine officer under this section in relation to premises are—

- (a) to search the premises for infected goods and, for that purpose, to break open and search any cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, on the premises;
- (b) to order into quarantine any infected goods found on the premises;
- (c) to carry out prescribed measures for regulating or preventing persons, vehicles or goods entering or leaving the premises or prescribed measures of quarantine on or relating to the premises during—
 - (i) the search of the premises for infected goods;
 - (ii) any period that infected goods found on the premises remain on the premises, whether by virtue of an approval of the premises under section 46A or otherwise; and

- (iii) such period after the treatment, disinfection, removal or destruction of infected goods found on the premises as the quarantine officer considers, on reasonable grounds, to be a period during which there is danger of the spread of infection by reason of those goods having been on the premises;
- (d) to affix prescribed notices in relation to quarantine on or near the premises;
- (e) to trap or destroy wild animals on the premises;
- (f) to ask questions and inspect documents relating to the movement of persons, vehicles or goods onto or from the premises; and
- (g) 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,

and include the functions of a quarantine officer under section 74B.

“(5) If, while a quarantine officer is entitled to exercise the functions of a quarantine officer in relation to premises, any vehicle leaves those premises without the permission of the quarantine officer, the quarantine officer may exercise those functions, so far as relevant, in relation to the vehicle as if it were part of those premises.

“(6) Nothing in this section authorizes the exclusion of the occupier of premises from those premises while they are being searched.

“(7) Nothing in this section authorizes the exclusion from a dwelling of a person who usually resides in that dwelling.

“(8) This section does not limit the powers of a quarantine officer or other person under any other provision of this Act.

“(9) In this section—

‘infected goods’ means—

- (a) goods infected with a quarantinable disease;
- (b) goods that a quarantine officer suspects, on reasonable grounds, are likely to be infected with a quarantinable disease;
- (c) goods that have been exposed to infection with a quarantinable disease;
- (d) goods that have been—
 - (i) imported into Australia;
 - (ii) brought into any port or place in Australia; or
 - (iii) removed from a part of Australia to another part of Australia,

in contravention of this Act or any proclamation under this Act; or

- (e) subject to sub-section (10), goods that have been in contact with, or that a quarantine officer suspects, on reasonable grounds, have been in contact with, goods referred to in paragraph (a), (b), (c) or (d);

‘premises’ includes—

- (a) an area of land that is not associated with any building;
and
- (b) a vessel,

but does not include a quarantine station or quarantine area.

“(10) For the purposes of this section—

- (a) goods shall be deemed to have been in contact with each other if they have been in close proximity to each other;
- (b) an animal shall be deemed to have been in contact with any animal of which it is the progeny;
- (c) a plant shall be deemed to have been in contact with any plant of which it is the progeny, including any plant of which it was a cutting or from which it was otherwise derived; and
- (d) goods that have been in contact with other goods shall be deemed to have been in contact with any goods with which those other goods have been in contact (including any goods with which those other goods are deemed to have been in contact by virtue of this sub-section).

“74B. (1) A quarantine officer may, with the consent of the occupier of any premises, enter the premises and exercise the functions of a quarantine officer under this section. Power to search premises for documents

“(2) Where a quarantine officer has reason to believe that there are on premises any examinable documents, the quarantine officer may make an application to a Justice of the Peace for a warrant authorizing the quarantine officer to enter the premises and to exercise the functions of a quarantine officer under this section in relation to those premises.

“(3) If, on an application under sub-section (2), the Justice of the Peace is satisfied, by information on oath or affirmation—

- (a) that there is reasonable ground for believing that there are on those premises any examinable documents; and
- (b) that the issue of the warrant is reasonably required for the purposes of this Act,

the Justice of the Peace shall grant a warrant authorizing the quarantine officer, with such assistance as the quarantine officer thinks necessary, to enter the premises, during such hours of the day or night as the warrant specifies, or, if the warrant so specifies, at any time, if necessary by force, and to exercise the functions of a quarantine officer under this section in relation to those premises.

“(4) The functions of a quarantine officer under this section in relation to premises are—

- (a) to search the premises for examinable documents and, for that purpose, to break open and search any cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, on the premises; and
- (b) to inspect, take extracts from and make copies of any examinable documents found on the premises.

“(5) In this section—

‘examinable documents’ means any books, documents or papers relating to goods that are infected goods within the meaning of section 74A;

‘premises’ has the same meaning as in section 74A.

Obstruction
of officers

“74C. (1) A person shall not, without reasonable excuse, obstruct or hinder a quarantine officer acting in pursuance of sub-section 74A (1) or 74B (1) or in pursuance of a warrant granted under sub-section 74A (3) or 74B (3).

Penalty: \$2,000.

“(2) A person shall not—

- (a) without reasonable excuse, refuse or fail to answer a question put to him under paragraph 74A (4) (f); or
- (b) in answer to such a question, make a statement that is false or misleading in a material particular.

Penalty: \$2,000.”

NOTES

1. Act No. 105, 1979; assented to 25 October 1979.
2. Act No. 3, 1908, as amended. For previous amendments *see* Act No. 15, 1912; No. 42, 1915; No. 47, 1920; No. 30, 1924; Nos. 19 and 92, 1947; No. 80, 1950; No. 61, 1961; No. 12, 1966; No. 1, 1969; No. 216, 1973; and No. 1, 1979.