

Protecting Primary Production Amendment Bill 2011

Explanatory Notes

Short title

The short title of the Bill is the *Protecting Primary Production Amendment Bill 2011*.

Policy objectives and the reasons for them

The policy objective of this Bill is to make necessary and timely, but non-controversial, amendments to six Acts within the portfolio jurisdiction of the Minister for Agriculture, Food and Regional Economies.

Over the past 12 months, the Department of Employment, Economic Development and Innovation (DEEDI) has identified a number of desirable amendments to legislation within the portfolio jurisdiction of the Minister for Agriculture, Food and Regional Economies. These amendments are suitable for an omnibus or miscellaneous amendment Bill, and involve the following Acts:

- *Agricultural Chemicals Distribution Control Act 1966*;
- *Agricultural Standards Act 1994*;
- *Land Protection (Pest and Stock Route Management) Act 2002*;
- *Plant Protection Act 1989*;
- *Rural and Regional Adjustment Act 1994*; and
- *Veterinary Surgeons Act 1936*.

Achievement of policy objectives

Amendments to the *Agricultural Chemicals Distribution Control Act 1966* will give effect to a Government decision in response to the Independent Review of Queensland Government Boards, Committees and Statutory

Authorities to abolish the Agricultural Chemicals Distribution Control Board and transfer the relevant functions to the chief executive of DEEDI.

Amendments to the *Agricultural Standards Act 1994* will address a gap identified in the Act to bring it into line with other Australian jurisdictions by implementing the national Ruminant Feed Ban (RFB). The RFB prohibits the feeding of restricted animal material ruminants to prevent the spread of transmissible diseases (such as bovine spongiform encephalopathy (BSE) or ‘mad cow disease’). The amendments are necessary to ensure inspectors have adequate entry powers for the routine testing of stock feed.

Amendments to the *Land Protection (Pest and Stock Route Management) Act 2002* will replace the existing requirement for two separate strategies with a single Queensland Weed and Pest Animal strategy.

The amendment to the *Plant Protection Act 1989* will clarify that land and vehicle owners and persons engaged by landowners to work on the land are obliged to notify an inspector of a notifiable pest based on whether they are aware of or ought reasonably to have been aware of the existence of the pest.

Amendments to the *Rural and Regional Adjustment Act 1994* are in response to the report of the review of the Act tabled in the Legislative Assembly on 21 September 2010 which made recommendations to facilitate the administration of interstate schemes by QRAA, to streamline the appointment of, and delegation of powers by, the QRAA Chief Executive Officer and to clarify the requirements for future review of the Act.

Amendments to the *Veterinary Surgeons Act 1936* will fulfil a key commitment of the Queensland government to participate in the National Recognition of Veterinary Registration (NRVR) scheme. The agreement of all Australian States and Territories to legislate for participation in the national registration scheme has been achieved via the national Primary Industries Ministerial Council. A further amendment to support the State’s biosecurity effort will ensure that all veterinary surgeons can be contacted at any time about actual or potential biosecurity incidents.

Alternative ways of achieving policy objectives

The alternative to amending these Acts by the one Bill is to amend each Act separately. This is not considered a good use of Parliamentary time, as

there is no good reason why the amendments cannot be handled together in a single Bill.

Estimated cost for government implementation

The only amendments in the Bill expected to have any financial impact are those being made to the *Veterinary Surgeons Act 1936* in regard to the introduction of NRVR in Queensland. The Veterinary Surgeons Board (the board) has estimated that there could be an annual reduction of approximately \$20,000 in registration fee income as a consequence of NRVR removing the requirement for interstate veterinary surgeons to obtain secondary registration from the board to practice in Queensland.

This income loss will have to be absorbed by the board, unless annual registration fees for Queensland registered veterinary surgeons are increased as a consequence. The board has estimated that the potential amount of the increase would be in the range of \$7-\$8 per registrant, or a 5% increase over and above the normal annual CPI increases.

The Queensland Government does not intend to propose any increase in annual registration fees for veterinary surgeons by more than CPI in the short term. The whole question of the appropriate future level of registration fees for veterinary practitioners will be addressed as part of the full review and rewrite of the *Veterinary Surgeons Act 1936* and the associated *Veterinary Surgeons Regulation 2002* (which includes the fees schedule) which will be undertaken over the next 12 months.

Consistency with fundamental legislative principles

Issues about consistency with fundamental legislative principles (FLP) contained in section 4 of the *Legislative Standards Act 1992* (LSA) have been raised in respect of some amendments during the development of this Bill. These are addressed in detail below.

Legislation should have sufficient regard to rights and liberties of individuals – LSA s4(2)(a)

Amendment of the *Agricultural Chemicals Distribution Control Act 1966* (ACDC Act)

Clause 4 of the Bill abolishes the Agricultural Chemicals Distribution Control Board (the ACDC board) and omits provisions providing for its establishment and operation. The remaining clauses in Part 2 of the Bill

replace references to the ACDC board with chief executive to provide that the chief executive can fulfil the ACDC board's functions.

A potential FLP issue arises in regard to whether an ACDC board member is deprived of office without compensation. In circumstances where members of a government board are deprived of office it is usual for Act provisions to specifically provide for compensation or either state that compensation can neither be claimed nor paid.

However, as the ACDC board is not currently constituted, its last appointments having expired on 7 December 2007, there is no element of deprivation of office established. Consequently the issue of compensation does not arise.

A further potential FLP is raised in relation to clause 14 of the Bill which amends the ACDC Act by replacing section 21 (Cancellation or suspension of licence). The clause still provides the power for the chief executive to cancel or suspend licences however, it includes additional provisions which outline the process which must be followed in far greater detail than previously prescribed.

It also includes appropriate review processes for the adequate exercise of the power consistent with contemporary legislative standards. Consequently the potential FLP issue is addressed in the amendment by providing balance to this administrative power.

Amendment of the *Plant Protection Act 1989* (PP Act)

Clause 39 of the Bill amends section 12 of the PP Act (Notification of pests). This amendment provides an obligation on the owners of land or vehicles and persons engaged by landowners to carry out activities on the land, to notify an inspector of the existence of notifiable pests on the land or vehicle. The clause also provides that persons must notify an inspector as soon as practicable but not more than 24 hours after they become aware of or ought reasonably have been aware of the existence of the pest. The clause further provides a significant penalty of 1000pu for failing to comply.

Previously land and vehicle owners were required to report the existence of a notifiable pest based on a high level state of mind, that of 'awareness' only of the pest. This provision was considered very difficult to enforce and prosecute as it required demonstrating another person's awareness of a notifiable pest when failing to report its presence to an inspector within the required 24 hour period. It is generally unlikely that a person could be

aware that a pest is a notifiable pest given that factual certainty of some pests is acquired, at least in the regulator's context (i.e. by Biosecurity Queensland), from analysis of suspect specimens by trained diagnosticians in a laboratory situation. This extent of analysis is generally beyond the scope of most persons.

To facilitate the objectives of the Act to prevent, control or remove pest infestations, Biosecurity Queensland provide persons with information to enable awareness of the presence of notifiable pests based upon key, specific criteria. This may also include on-site visits and the distribution of other education material or campaigns either directly to individuals or to the community generally through various media. When a person has received or been exposed to one or more of these sources of information, it can be more successfully argued that a person ought reasonably have been aware of a pest's existence and consequently should have notified an inspector.

The clause amends the provision to therefore provide for a range of states of mind (from 'awareness' to 'reasonable awareness') to be satisfied before a person becomes subject to the obligation to report the pest's existence. The intent of this clause is two-fold in that firstly, it will assist the prevention, control or removal of pests by providing for more notifications to be made, and enable Biosecurity Queensland to deal with them before they become a problem or greater threat to agricultural industries or the community. Secondly, the clause requires a more realistic standard of evidence in order to prosecute those persons who do not fulfil their obligations under the Act, particularly those who harbour notifiable pests.

Harbouring of pests occurs when an apparent infestation is present on land (or a vehicle) and this is not reported by the owner, thus allowing the infestation to increase in prevalence and create a significant biosecurity risk with resultant long term financial and other impacts. Notifiable pests are distinct from other prescribed pests by virtue of the greater biosecurity risk they present. This distinction is currently recognised in the *Plant Protection Regulation 2002* where notifiable pests are prescribed in a separate schedule. Red imported fire ants is an example of a notifiable pest which presents significant biosecurity risks as they can seriously impact livestock industries, public amenity and have even been responsible for several human deaths internationally through anaphylactic shock.

It is acknowledged that expanding the threshold state of mind required in order to notify an inspector can affect persons' rights and liberties, however

the amendment is necessary for the protection of the physical and economic safety of individuals, the community and the economy.

To mitigate the potential impacts on persons' rights and liberties would diminish the effectiveness for this provision to be enforced and compromise how information on pests is elicited from the community.

In light of the biosecurity risks that notifiable pests generally present, it is entirely appropriate and justified for the clause to be drafted in this manner. It provides a balance between a requirement that elicits information on notifiable pests in a timely way and one which provides better enforcement based on a more realistic level of awareness.

Amendment of the Veterinary Surgeons Act 1936 (VSA)

Clause 58 of the Bill inserts new section 22FA (Board to notify registration authority of disciplinary action) into the VSA. This amendment requires the Queensland Veterinary Surgeons Board to notify the equivalent registering authority in each other jurisdiction of any action taken by QCAT or by the Board in relation to a veterinary surgeon by way of an order, admonishment or reprimand pursuant to sections 22A(1)(a) or (b), 22C, 22D or 22E.

The provisions listed in new section 22FA relate to professional misconduct by a veterinary surgeon, to a veterinary surgeon convicted of an offence which renders the person no longer fit to practise veterinary science and to a veterinary surgeon who is medically unfit to practise.

The reason for the new notification provision is that it is a critical component of the National Recognition of Veterinary Registration (NRVR) scheme in respect of which Queensland has given a commitment to the national Primary Industries Ministerial Council to pass legislation to enable Queensland to participate in the scheme. The NRVR scheme is based on six [6] model rules which will allow veterinary surgeons who are registered in any jurisdiction in Australia to practice veterinary science in any other jurisdiction without having to apply for registration or to pay a registration fee.

The NRVR achieves national registration for veterinary surgeons through a statutory device which deems veterinary surgeons registered in one jurisdiction to be registered in all participating jurisdictions. The scheme relies on the registration in the home jurisdiction being exactly mirrored in all other jurisdictions so that any conditions or limitations applied to the registration are reproduced in all other jurisdictions.

In order for each participating jurisdiction to be able to identify the exact nature of registration, including any conditions or limitations, for each veterinary surgeon practising in their jurisdiction on the basis of deemed registration it is essential that any matters relevant to registration are notified to each other jurisdiction.

The introduction of the NRV scheme is a gradual process which allows each jurisdiction to 'opt in' by introducing legislation which adopts the model principles as agreed between the jurisdictions. A national electronic data base is currently being developed so that in the near future every jurisdiction will be automatically notified of any regulatory action taken in relation to a registered veterinary surgeon.

There may be an argument that notifying other jurisdictions of disciplinary action in respect of an individual veterinary surgeon may affect that person's rights and liberties. However, the Primary Industries Ministerial Council considered that the notification requirement strikes a balance between the significant benefit to veterinary surgeons of a national right to practise veterinary science at no further cost and any perceived detriment caused by the notification of disciplinary action to other jurisdictions.

In order to protect animals and their owners from any unprofessional conduct by veterinary surgeons, it is imperative that each jurisdiction which grants a right of practise to veterinary surgeons registered in another jurisdiction is notified of any matters which may affect that right to practise. National registration cannot be allowed to militate against the current high standards of professional conduct associated with the practise of veterinary science in Australia in general, and in Queensland in particular.

Legislation should confer power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer – LSA, s4(3)(e)

Amendment of the *Agricultural Standards Act 1994*

Clause 24 of the Bill confers a power on inspectors to enter vehicles without a warrant if the inspector suspects the vehicle is being or has been used to commit an offence against the Act and the vehicle or something in it, may provide evidence of the offence.

Clause 24 also provides that in addition to entering a vehicle where there is a suspicion of an offence, an inspector may enter a vehicle to check compliance with a provision of the Act about the content, labelling or sale

of stock feed or to prevent the introduction of an exotic disease into the State or control the spread of an exotic disease in the State.

The amendment proposed by clause 24 is necessary to address gaps which were identified in the Act relating to Queensland's ability to adequately enforce the national Ruminant Feed Ban (RFB). The national RFB has been agreed to and adopted by all States and Territories to prohibit the feeding of restricted animal material (RAM), including meat and bone meal to ruminants. This is designed to prevent the spread of transmissible spongiform encephalopathies, most notable among which is BSE or mad cow disease, which can have devastating effects on livestock and humans.

The national RFB is supported by various mechanisms one of which is a comprehensive, risk-based compliance inspection program undertaken by all State and Territory authorities to target all sectors in the livestock feed chain. Without amendment, the potential exists for stock feed containing RAM to pass through the supply chain undetected because vehicles carrying stock feed would not be able to be entered and routinely tested for the presence of RAM.

DEEDI considers this clause entirely reasonable in the context of protecting the community against significant health threats like mad cow disease and maintaining valuable export and domestic markets for livestock industries.

To minimise the impact on persons' rights and liberties, in part the clause limits the power of entry to a vehicle without suspicion of an offence, to situations to check compliance with discrete activities relevant to the Act i.e. the content, labelling or sale of stock feed. The connection to the Act's objectives limits the scope of the types of vehicles likely to be routinely tested for the presence of RAM. It is intended that not all vehicles will be entered by an inspector to check compliance, only those vehicles commercially transporting stock feed.

Clause 24 also provides a safeguard to preserve persons' rights and liberties in that the expanded power of entry will not apply to those parts of the vehicle used for private purposes e.g. the sleeping compartments of semi-trailers.

Clause 24 includes a provision whereby an inspector who wishes to enter a vehicle, either because of suspicion of an offence or to check compliance with the Act, must attempt to tell the person in control of the vehicle of his intention and give them an opportunity to consent to the entry. This

provision is similar to an inspector's power of entry to places and mitigates to some extent the degree to which a person's rights may be infringed.

Consultation

The amendments to the *Agricultural Chemicals Distribution Control Act 1966* and to the *Land Protection (Pest and Stock Route Management) Act 2002*, being of a purely administrative nature, have not been the subject of external consultation.

The proposed amendments to the *Agricultural Standards Act 1994* have not been consulted on specifically as they were part of broader and more extensive consultation previously undertaken in the context of developing national guidelines for compliance and monitoring to underpin the national RFB program.

The amendment of the *Plant Protection Act 1989* has not been the subject of external consultation.

During the review of the *Rural and Regional Adjustment Act 1994*, submissions were accepted from stakeholders and other interested parties, including the Queensland Farmers' Federation (QFF) and AgForce Queensland. The submissions were supportive of a broadening of QRAA's role and improvements in QRAA's governance arrangements.

QRAA itself has also been consulted and is supportive of the proposed amendments.

The amendments to the *Veterinary Surgeons Act 1936* in regard to NRVR reflect a nationally agreed scheme that has been developed in consultation with the veterinary profession. In Queensland, there has been consultation with the Veterinary Surgeons Board (VSB) and with the Queensland division of the Australian Veterinary Association (AVAQ). The same entities were consulted on the amendments which are intended to ensure that veterinary surgeons provide accurate contact details and to allow those details to be used by Biosecurity Queensland only to contact veterinary surgeons during an emergency biosecurity response.

Relevant Government departments, including the Department of the Premier and Cabinet, Queensland Treasury (including the Queensland Office of Regulatory Efficiency), Department of Justice and the Attorney General and the Office of Climate Change in the Department of the Environment and Resource Management, have been consulted on all of the amendments.

Consistency with legislation of other jurisdictions

The only amendment where the matter of inter-jurisdictional consistency arises is in regard to the amendments to the *Veterinary Surgeons Act 1936* to facilitate Queensland participation in the NRVV scheme.

All States and Territories have agreed to implement NRVV, this being negotiated via the national Primary Industries Ministerial Council (PIMC)

To date, only Victoria has actually passed legislation to activate the NRVV scheme in Victoria from 1 January 2011. However, the other States and the two Territories are each expected to implement the necessary facilitating legislation within the next 12 months.

Each jurisdiction has agreed to legislate an NRVV model, as adopted by PIMC, based around a set of six [6] model principles, namely:

1. There shall be a provision in the relevant Act that regulates the conduct of veterinary surgeons/practitioners, to the effect that a person shall be deemed to be registered under that Act in that state or territory if that person is registered as a veterinary surgeon/practitioner under an equivalent Act in another state or territory.
2. This provision shall only apply in the case of persons holding general and/or specialist registration.
3. This deemed registration shall be subject to the same conditions, restrictions or limitations (if any) that apply to the (primary) registration in the first state or territory.
4. This registration shall be deemed to be suspended or cancelled if it is suspended or cancelled in the first state or territory.
5. All legal rights and obligations applying normally to registered veterinary practitioners under the relevant Act in the state or territory shall apply equally to persons deemed to be registered in accordance with 1 above.
6. A person must apply for primary registration in the state or territory of their primary business. If a registered veterinary practitioner moves his/her primary place of business to another state or territory they shall advise the Board in that new state or territory within one month of such a move.

Like Victoria, the Queensland amendments have been developed to ensure consistency with this endorsed national model.

Notes on provisions

Part 1 Preliminary

Clause 1 provides that the short title of the Act is the *Protecting Primary Production Amendment Act 2011*.

Clause 2 provides that the amendments in Part 2 (the amendments to the *Agricultural Chemicals Distribution Control Act 1966*) will commence on a date to be fixed by Proclamation. All of the other amendments will commence upon Assent of the Bill.

The reason why the amendments to the *Agricultural Chemicals Distribution Control Act 1966* will commence on a different date to the other amendments is because they are required to commence at the same time as amendments to the *Agricultural Chemicals Distribution Control Regulation 1998*. These regulation amendments will complete the transfer of administrative functions from the Agricultural Chemicals Distribution Control Board to the chief executive and will be the subject of Governor in Council consideration following the progression of this Bill.

Part 2 Amendment of Agricultural Chemicals Distribution Control Act 1966

Clause 3 states that this part amends the *Agricultural Chemicals Distribution Control Act 1966*.

Clause 4 omits sections 8 to 10B inclusive as they relate to the composition and functions of the Agricultural Chemicals Distribution Control Board (the board) which will no longer exist.

Clause 5 amends section 12 (Pilot chemical rating licence) to replace the reference to the board with chief executive to provide that the chief executive has the power, rather than the board, to grant pilot chemical rating licences.

Clause 6 amends section 15 (Aerial distribution contractor licence) to replace the reference to the board with chief executive to provide that the chief executive, rather than the board, has the power to grant aerial distribution contractor licences.

Clause 7 amends section 16 (Commercial operators' licence) to replace reference to the board with chief executive to provide that the chief executive, rather than the board, has the power to grant all or any of the prescribed classes of commercial operators' licence.

Clause 8 amends section 16B (Ground distribution contractor licence) to replace reference to the board with chief executive to provide that the chief executive, rather than the board, has the power to grant a ground distribution contractor's licence.

Clause 9 amends section 17 (Application for licences) to replace references to board with chief executive to provide that an application for a licence must be made to the chief executive who may ask for further information to decide the application and it is the chief executive, rather than the board, who may decide to grant or refuse the application.

Clause 10 amends section 18 (Term of licence) to replace reference to the board with chief executive to provide that the chief executive, rather than the board, may issue or renew a licence for up to three years.

Clause 11 amends section 19 (Renewal of licence) to replace references to the board with chief executive to provide that a person may apply to the chief executive, rather than the board, to renew a licence and it is the chief executive who has the power to request further information to decide the application and either grant or refuse the licence and issue a decision notice should the licence be refused.

Clause 12 amends section 19B (Notice of change in circumstances) to replace reference to the board with chief executive to provide that the licensee must give the chief executive, rather than the board, written notice of a change in the licensee's circumstances within 21 days.

Clause 13 amends section 20 (Suspension of licence by standards officer) to replace reference to the board with chief executive to clarify that in circumstances where the standards officer considers it necessary to suspend a licence, it is the chief executive, rather than the board, who has the power to remove the suspension imposed by the standards officer before the suspension period ends.

Clause 14 replaces section 21 (Cancellation or suspension of licence) with new sections 21 (Grounds for suspension or cancellation of licence by chief executive), 21A (Show cause notice), 21B (Representations about show cause notice), 21C (Ending show cause process without further action) and 21D (Suspension or cancellation of licence).

The insertion of these new sections is necessary as the previous section 21, by virtue of the age of the statute, inadequately defined the exercise of administrative power in the cancellation or suspension of licences. Consequently, the inserted sections more fully expand the administrative process to which the process of suspension or cancellation of licences are subject. These provisions are in keeping with contemporary drafting practice.

New section 21 states the grounds upon which a licence may be cancelled or suspended.

New section 21A provides that if the chief executive believes a ground exists to suspend or cancel a licence, he must give the licensee a show cause notice stating the things listed in subsection (2)(a) to (e). Subsection (3) provides that the show cause period must end at least 21 days after the licensee is given the show cause notice by the chief executive.

New section 21B enables the licensee to make written representations about the show cause notice to the chief executive in the show cause period and obliges the chief executive to consider all written representations made (referred to as accepted representations).

New section 21C provides that if, after considering the accepted representations (if any) for the show cause notice, the chief executive no longer believes a ground exists to suspend or cancel the licence, the chief executive must not take any further action about the show cause notice and must give the licensee a notice stating this.

New section 21D applies if, in the absence of any accepted representations for the show cause notice or after considering the accepted representations, the chief executive still believes that a ground exists to suspend or cancel the licence and that the action to suspend or cancel is warranted. Subsection (2) provides that the chief executive may suspend the licence for not longer than the proposed suspension period if that was the proposed action advised to the licensee, or cancel or suspend the licence for a specified period, if the proposed action advised to the licensee was to cancel the licence. Subsection (3) provides that if the chief executive decides to suspend or cancel the licence under subsection (2), then the chief

executive must as soon as practicable give the licensee an information notice for that decision. Subsection (4) provides that the chief executive's decision to either suspend or cancel the licence, takes effect on the day the licensee is given the information notice under subsection (3) or the day stated in the information notice, whichever is the later.

Clause 15 amends section 22 (Right of review by QCAT) to replace reference to the board with chief executive to reflect that an applicant or licensee may apply to have decisions of the chief executive, rather than the board, to refuse an application for or renewal of a licence or the suspend or cancel a licence, reviewed by QCAT.

Clause 16 amends section 31 (Effect of failure to give notice) to omit from evidence which may be tendered by a claimant in an action for damages, documents of the board or board members. This reflects the fact that such documents will no longer exist once the board is abolished.

Clause 17 amends section 32 (Powers of inspection in case of damage to crops etc.) to reflect the intent of only having inspectors rather than the standards officer, enter on land to conduct inspections, take samples and write reports in circumstances where damage to crops or stock is being investigated. The amended subsections (1)(c) and (d) provide for inspectors to give written reports and samples taken to the standards officer. The standards officer is also omitted as a person who may be obstructed in the exercise of a power under this provision.

Clause 18 amends section 33 (Board to make statement on damage) to change the heading to the 'Standards officer to make statement on damage' and to provide that if the standards officer receives a report from an inspector, he must consider the report and any comments from the inspector, make a statement in relation to the alleged loss or damage and may issue a copy of the statement to persons the standards officer considers to be interested parties to the matter.

Clause 19 amends section 44A (Protection from liability) to omit from the definition of official, a member of the executive committee of the board. This reflects the fact that the board will not exist once abolished and consequently there will be no members of the executive committee requiring protection from liability.

Clause 20 amends section 45 (Evidence) to omit from the list of evidentiary provisions entries in the minute book of the board. This reflects the fact that the board will no longer exist once abolished. The clause also renumbers the remaining section.

Clause 21 amends the schedule (Dictionary) to the Act by omitting definitions which will no longer exist due to the abolition of the board and inserts new definitions related to the amendments being made to the Act.

Part 3 Amendment of Agricultural Standards Act 1994

Clause 22 states that this part amends the *Agricultural Standards Act 1994*.

Clause 23 amends section 20 (Entry to places) to provide that entry at a reasonable time to a place, other than a place where people reside, may be for either-

- checking compliance with the Act, about the content, labelling or sale of food for stock, or
- to prevent the introduction or spread of an exotic disease in the State.

Previously entry under this section could only be made if the entry was to fulfil both purposes (i.e. to check compliance with the Act and to prevent the introduction or spread of an exotic disease). It was necessary to amend this section in order to separate the reasons for entry.

This was required because although restricted animal material (RAM) in stock feed could spread mad cow disease (an exotic disease) if it was introduced into Australia, RAM in itself is not an exotic disease, nor is there a present belief that RAM could cause the disease. However, there is a need to be able to test for RAM to reduce the risk of mad cow disease circulating in stock feed if the disease was introduced into the State.

Without the amendment, mad cow disease would have to be introduced into the State before routine testing of stock feed to test for the presence of RAM could be undertaken. Consequently, this presented an unacceptable risk which needed to be addressed.

Clause 24 amends section 24 (Entry to vehicles) to provide that, apart from entering a vehicle on suspicion of an offence, an inspector may also enter a vehicle to check compliance with a provision of the Act about the content, labelling or sale of stock feed or to prevent the introduction into or control of the spread of an exotic disease in the State.

Consistent with the need to constrain the power of entry without a warrant and limit the impact on persons' rights and liberties, the section clarifies that where entry to the vehicle is made without suspicion on these additional grounds, that the entry is only made to a part of the vehicle other than a part of a vehicle used only as a living area, such as the sleeping compartments of semi-trailers.

The linking of these additional powers of entry to the purposes of the Act ensures that entry is made only to those vehicles which have a connection to activities under the Act, namely, stock feed transporters. Consequently, this provision allows an inspector to routinely enter vehicles, particularly those which may be at stock feed premises and take samples of ruminant stock feed from the vehicle for analysis to test for the presence of restricted animal material.

Clause 24 includes a new subsection (2) which provides that an inspector who wishes to enter a vehicle, either because of suspicion of an offence or to check compliance with the Act or to prevent or control the spread of an exotic disease, must do or make a reasonable attempt to do all of the following:-

- produce or display the inspector's identity card in accordance with section 19(1); and
- tell the owner or person in control of the vehicle that he is authorised to enter the vehicle; and
- give the owner or person in control of the vehicle an opportunity to consent to the entry.

This clause also inserts new subsection (2A) to provide that if the inspector is unable to locate the owner or driver of the vehicle, then after entering the vehicle the inspector must leave a notice in a conspicuous position and in a reasonably secure way stating the date, time and purpose of the entry.

Part 4 **Amendment of Land Protection (Pest and Stock Route Management) Act 2002**

Clause 25 states that this part amends the *Land Protection (Pest and Stock Route Management) Act 2002*.

Clause 26 amends the heading of part 2 (State pest management strategies and guidelines for managing pests) to change strategies to strategy to reflect that a single State pest management strategy and guidelines for managing pests will be provided for as per the amendment in clause 28.

Clause 27 amends the heading of part 2, division 1 (State pest management strategies) to change strategies to strategy to reflect that a single State pest management strategy will be provided for as per the amendment in clause 28.

Clause 28 amends section 10 (State pest management strategies) to change the heading from strategies to strategy to reflect that a single State pest management strategy will be provided and to omit the word separate from the section, thereby requiring the chief executive to only develop a single State pest management strategy covering both animals and plants.

Clauses 29 – 37 make amendments to sections 11 (Preparing strategies), 12 (Duration of strategies), 13 (Implementing strategies), 14 (Reviewing and renewing strategies), the heading of chapter 2, part 2, division 3 (Inspecting strategies and guidelines), 16 (Strategies and guidelines to be available for inspection), 18 (Requirements of plan), 26 (Requirements of plan) and 27 (Preparing draft plan) respectively consequential to the amendment in clause 28 to reflect the provision for a single State pest management strategy.

Part 5 **Amendment of Plant Protection Act 1989**

Clause 38 states that this part amends the *Plant Protection Act 1989*.

jurisdictions and for the approval process for those components to be the same as for interstate schemes.

The review of the Act was established by the then Minister for Primary Industries, Fisheries and Rural and Regional Queensland in accordance with section 45 to determine if the Act provisions remained appropriate. The review report was subsequently tabled in the Legislative Assembly in September 2010.

Clause 42 amends section 8 (Authority's functions) to provide that as part of the authority's other functions QRAA may administer entire authorised interstate schemes as well as parts of authorised interstate schemes.

Clause 43 amends section 11A (Authorisation for interstate schemes) such that it will apply to schemes or parts of schemes, other than approved assistance schemes established by the Commonwealth or another State or an entity representing either. The clause provides that QRAA must not tender for or agree to administer a scheme or part of a scheme unless the Minister has authorised such. The clause also provides that QRAA must give the Minister any information requested by him in respect of the tender or arrangement to administer the scheme or part of the scheme. This clause also reflects recommendations 1 and 2 of the Act review report.

Clause 44 amends section 35 (Acting chief executive officer) to provide that the Minister, rather than the Governor in Council, may appoint an acting chief executive officer for QRAA in periods when the chief executive officer position is vacant or when the appointed chief executive officer is absent or unable to perform the duties of the position. This clause reflects recommendation 4 of the Act review report.

Clause 45 inserts a new section 35B (Delegation) to provide that the chief executive officer of QRAA may delegate his powers, including those delegated to him by the QRAA Board, to an officer of QRAA provided he is satisfied the person is appropriately qualified and the QRAA Board approves. This clause reflects recommendation 5 of the report of the review of the Act to allow the chief executive officer to delegate and sub-delegate his functions under the Act to appropriately qualified officers of the Authority.

Clause 46 inserts a replacement section 45 (Review of Act) which obligates the Minister to review the Act within every ten years to decide whether its provisions remain appropriate and then table a report in the Legislative Assembly on the review. The clause also provides that the initial review must be within 10 years of 1 July 2012 and then subsequently

within 10 years after tabling the review report. This clause reflects recommendation 6 of the report of the review of the Act.

Part 7 **Amendment of Veterinary Surgeons Act 1936**

Clause 47 states that this part amends the *Veterinary Surgeons Act 1936*.

Clause 48 amends section 4C (Membership) by changing the reference to ‘veterinary surgeons’ in subsection (2) so that membership of the Veterinary Surgeons Board of Queensland (the board) is restricted to veterinary surgeons whose names appear on the register with the result that veterinary surgeons deemed registered through the National Recognition of Veterinary Registration (NRVR) scheme provisions are not eligible to be appointed to the board.

Clause 49 amends section 4D (Chairperson and deputy chairperson) by changing the reference to ‘veterinary surgeon’ in subsection (3) so that the deputy chairperson must be a veterinary surgeon whose name appears on the register.

Clause 50 amends section 8 (Board to hold triennial election) by changing the reference to ‘each registered veterinary surgeon’ in subsection (4) so that only veterinary surgeons whose names appear on the register are eligible to vote at a triennial election. This reflects the policy that it is not appropriate for veterinary surgeons deemed to be registered under the NRVR scheme, and whose home jurisdiction is outside of Queensland, to vote to elect members of the board.

Clause 51 amends section 16 (Keeping registers) to provide that the emergency contact details required by section 19 are not required to be included in the registers of veterinary surgeons or veterinary specialists. New subsection (4A) makes it unnecessary for the registrar to include in the register any details about persons deemed to be registered as a veterinary surgeon or as a veterinary specialist in Queensland under the NRVR scheme.

Clause 52 amends section 17 (Annual fee) by inserting new subsection (6) which has the effect of exempting veterinary surgeons and veterinary

specialists who are deemed registered in Queensland under the NRVV scheme from paying an annual fee.

Clause 53 amends section 18 (Registration of veterinary surgeons) by inserting new subsection (3A) to enable the board to refuse an application for registration from a veterinary surgeon in certain circumstances. The board may refuse an application, where it considers it appropriate in the circumstances, if a veterinary surgeon has been refused registration, or been disqualified from applying, by an interstate registering authority. This provision ensures that the board retains a discretion to accept or reject the basis for a decision about registration by an interstate registering authority after considering whether the circumstances which existed at time of the interstate decision have changed or are appropriate to the decision about Queensland registration.

New subsection (3B) provides that the grounds for refusal of registration as a veterinary surgeon by the board set out in subsections (3) and (3A) operate despite subsection (1).

Clause 54 inserts new section 18B (Deemed registration as veterinary surgeon) to enable the veterinary profession in Queensland to participate in the NRVV scheme. This section operates to grant automatic registration in Queensland to any veterinary surgeon registered interstate by mirroring the interstate registration exactly so that the Queensland registration is subject to any limitations, conditions and restrictions which apply to the person's registration interstate.

Clause 55 amends section 19 (Application for registration) by replacing subsection (2) to require the approved form, which is used when applying for registration, to include the contact information for a veterinary surgeon. The term *contact information* is defined in the schedule to mean the veterinary surgeon's or applicant's business address, postal address, residential address and emergency contact details.

The clause also inserts new subsections (3) and (4). New subsection (3) makes it clear that an interstate registered veterinary surgeon or specialist who is deemed registered in Queensland by virtue of new section 18B does not, subject to subsection (4), need to apply for Queensland registration nor pay the registration fee. New subsection (4) requires a veterinary surgeon deemed registered in Queensland, who has taken up residence in Queensland and intends to practice in Queensland, to apply for registration before the expiry of the person's interstate registration.

Clause 56 amends section 19B (Registration for limited period) to restrict access to registration for a limited period of time to veterinary surgeons registered in New Zealand as the NRVR scheme introduced by this Act will replace limited period registration with deemed registration for interstate registered veterinary surgeons.

Clause 57 inserts new section 19CA (Deemed registration of veterinary specialists) to grant automatic registration in Queensland to any veterinary specialist registered interstate by mirroring that registration exactly, subject to the requirements that the veterinary specialist must have practised veterinary science for a period of at least 5 years before registration interstate as a veterinary specialist and that the specialty is one recognised under the Queensland *Veterinary Surgeons Act 1936*.

Clause 58 inserts new section 22FA (Board to notify registration authority of disciplinary action) as a component of the NRVR scheme to require the board to notify each registration authority in each jurisdiction in Australia as soon as practicable of information about action taken by the board under section 22A (Board may take disciplinary action) or an order, admonishment or reprimand by the Queensland Civil and Administrative Tribunal under sections 22C (Board may apply to tribunal for an order to remove the name of a veterinary surgeon from the register), 22D (Where veterinary surgeon medically unfit) or 22E (Orders of tribunal for misconduct in a professional respect).

Clause 59 inserts new section 26 (Notice about change in contact information) and new section 27 (Veterinary surgeon to provide emergency contact details) in order to achieve a better level of accuracy for contact information held by the registrar which may be used by the chief executive to contact veterinary surgeons about the biosecurity matters mentioned in new section 29C (Registrar must give emergency contact details to chief executive).

New section 26 requires all registered veterinary surgeons to notify the Board in writing within 21 days of any change to the contact information previously provided to the registrar. If a veterinary surgeon cannot provide a reasonable excuse for breach of this requirement a penalty of up to 10 penalty units may be applied.

New section 27 allows the registrar to ensure the accuracy of contact information by requiring through a notice in writing that a veterinary surgeon provide emergency contact details to the registrar. New subsection (2) requires a veterinary surgeon who receives a notice under subsection (1)

to provide to the registrar the emergency contact details within 21 days unless the person has a reasonable excuse. The penalty for non compliance is up to 10 penalty units.

Clause 60 inserts new section 29C (Registrar must give emergency contact details to chief executive) to support the effective management of biosecurity risk in Queensland by authorising the Registrar to give emergency contact details for all veterinary surgeons to the chief executive to use for the purpose of providing information to veterinary surgeons in order to control, eradicate, prevent the spread of or prepare for an occurrence of an exotic disease, a declared pest or a disease. New subsection (2) limits the use of the emergency contact details by the chief executive to the purposes set out in subsection (1).

Clause 61 inserts new definitions into the schedule (Dictionary) for the amendments made by this Act which introduce the NRVR scheme and which require all veterinary surgeons to provide emergency contact details to the registrar. The emergency contact details have been defined in a way to ensure all veterinary surgeons are able to be contacted during business hours as well as after hours by telephone or by email.