

TASMANIA

**BIOSECURITY (CONSEQUENTIAL AND
TRANSITIONAL PROVISIONS) BILL 2020**

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BIOSECURITY (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2020

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*
18 August 2020

*(Brought in by the Minister for Primary Industries and Water,
the Honourable Guy Barnett)*

A BILL FOR

An Act to amend certain legislation consequent on the commencement of the *Biosecurity Act 2019* and the repeal, under that Act, of certain other Acts

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Biosecurity (Consequential and Transitional Provisions) Act 2020*.

2. Commencement

- (1) Except as provided in this section, the provisions of this Act commence on the day on which this Act receives the Royal Assent.

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Part 1 – Preliminary

- (2) Section 6 and Schedule 2 commence on the day on which Part 1 of Schedule 3 to the *Biosecurity Act 2019* commences.
- (3) Section 7 and Schedule 3 commence on the day on which Part 2 of Schedule 3 to the *Biosecurity Act 2019* commences.
- (4) Section 8 and Schedule 4 commence on the day on which Part 3 of Schedule 3 to the *Biosecurity Act 2019* commences.
- (5) Section 9 and Schedule 5 commence on the day on which Part 7 of Schedule 3 to the *Biosecurity Act 2019* commences.

PART 2 – SAVINGS AND TRANSITIONAL

3. Interpretation of Part

In this Part –

commencement day means the day on which this Act receives the Royal Assent;

new legislative scheme means the legislative scheme established under –

- (a) the *Biosecurity Act 2019*; and
- (b) this Act;

old legislative scheme means the legislative schemes established under each of the following Acts:

- (a) the *Animal (Brands and Movement) Act 1984*;
- (b) the *Animal Farming (Registration) Act 1994*;
- (c) the *Animal Health Act 1995*;
- (d) the *Plant Quarantine Act 1997*;
- (e) the *Seeds Act 1985*;
- (f) the *Vermin Control Act 2000*;
- (g) the *Weed Management Act 1999*;

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Part 2 – Savings and Transitional

the regulations means regulations made for the purposes of this Act whether made under this Act or the *Biosecurity Act 2019*.

4. Savings and transitional regulations

- (1) The Governor may make regulations of a savings and transitional nature consequent on the enactment of the *Biosecurity Act 2019* to effect, and facilitate, the transition from the old legislative scheme to the new legislative scheme.
- (2) Without limiting the generality of subsection (1), regulations made under that subsection may –
 - (a) be made as regulations under this Act or as part of regulations made under the *Biosecurity Act 2019*; and
 - (b) provide for the preservation, continuation, extension, variation or revocation of any one or more of the following matters under the old legislative scheme:
 - (i) decisions, determinations, approvals, declarations, delegations or other such authorisations;
 - (ii) appointments;
 - (iii) bodies, facilities, committees or other organisations;

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- (iv) actions undertaken or exempted;
 - (v) permits, licences, exemptions, registrations or other such authorisations;
 - (vi) tags, brands, devices, cards or other such means of identification;
 - (vii) certificates, notices or other instruments or documents;
 - (viii) records, registers, lists or other such administrative, or publically available, collections of information or data;
 - (ix) any other matter under the old legislative scheme; and
- (c) deal with any incidental or ancillary matters.
- (3) Regulations made under subsection (1) may –
- (a) take effect on the commencement day or a later day specified in the regulations, whether the day so specified is before, on or after the day on which the regulations are made; and
 - (b) be made in respect of one or more Acts which form part of the old legislative scheme; and
 - (c) be made so as to apply differently according to the matters, limitations or

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- restrictions, whether as to time, circumstance or otherwise, specified in the regulations; and
- (d) authorise any matter to be from time to time approved, determined, applied or regulated by –
- (i) the Minister or the Secretary; or
 - (ii) the Chief Veterinary Officer within the meaning of the *Biosecurity Act 2019*; or
 - (iii) the Chief Plant Protection Officer within the meaning of the *Biosecurity Act 2019*; or
 - (iv) an authorised officer within the meaning of the *Biosecurity Act 2019*; or
 - (v) such other person specified in the regulations; and
- (e) specify that, if there is a conflict between the regulations and the old legislative scheme, the regulations prevail over an in force, or former, inconsistent provision of the old legislative scheme.

PART 3 – CONSEQUENTIAL AMENDMENTS

5. Consequential amendments - Biosecurity Act 2019

The legislation specified in Schedule 1 is amended as specified in that Schedule.

6. Consequential amendments - Animal (Brands and Movement) Act 1984

The legislation specified in Schedule 2 is amended as specified in that Schedule.

7. Consequential amendments - Animal Farming (Registration) Act 1994

The legislation specified in Schedule 3 is amended as specified in that Schedule.

8. Consequential amendments - Animal Health Act 1995

The legislation specified in Schedule 4 is amended as specified in that Schedule.

9. Consequential amendments - Weed Management Act 1999

The legislation specified in Schedule 5 is amended as specified in that Schedule.

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Part 4 – Miscellaneous

PART 4 – MISCELLANEOUS

10. Effect of certain consequential amendments

The amendment by this Act of a provision of any regulations made under any Act does not prevent that provision or any other provision of those regulations from being amended or rescinded by any subsequent regulations.

11. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Primary Industries and Water; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Primary Industries, Parks, Water and Environment.

**SCHEDULE 1 – CONSEQUENTIAL AMENDMENTS -
BIOSECURITY ACT 2019**

Section 5

Inland Fisheries Act 1995

1. Section 132 is repealed.

Primary Produce Safety (Egg) Regulations 2014

1. Regulation 8 is amended by inserting after paragraph (e) the following paragraph:

(ea) *Biosecurity Act 2019*;

***Primary Produce Safety (Meat and Poultry) Regulations
2014***

1. Regulation 10 is amended by inserting after paragraph (e) the following paragraph:

(ea) *Biosecurity Act 2019*;

Primary Produce Safety (Pet Food) Regulations 2014

1. Regulation 7 is amended by inserting after paragraph (e) the following paragraph:

(ea) *Biosecurity Act 2019*;

Primary Produce Safety (Seafood) Regulations 2014

1. Regulation 9 is amended by inserting after paragraph (e) the following paragraph:

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(ea) *Biosecurity Act 2019*;

Primary Produce Safety (Seed Sprouts) Regulations 2014

1. Regulation 7 is amended by inserting after paragraph (e) the following paragraph:

(ea) *Biosecurity Act 2019*;

**SCHEDULE 2 – CONSEQUENTIAL AMENDMENTS -
ANIMAL (BRANDS AND MOVEMENT) ACT 1984**

Regulation 6

Approvals (Deadlines) Act 1993

1. Schedule 1 is amended by omitting

*Animal (Brands and
Movement) Act 1984*

Registration of brand or tag	60 days from the day on which an application under section 11 (6) of the <i>Animal (Brands and Movement) Act 1984</i> is received by the Registrar of Animal Brands.
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**SCHEDULE 3 – CONSEQUENTIAL AMENDMENTS -
ANIMAL FARMING (REGISTRATION) ACT 1994**

Section 7

Nature Conservation Act 2002

1. Section 3(1) is amended by omitting “*Animal Farming (Registration) Act 1994*” from paragraph (d)(i) of the definition of *wildlife* and substituting “*Biosecurity Act 2019*”.

**SCHEDULE 4 – CONSEQUENTIAL AMENDMENTS -
ANIMAL HEALTH ACT 1995**

Section 8

***Agricultural and Veterinary Chemicals (Control of Use) Act
1995***

1. Section 3(1) is amended by omitting “*Animal Health Act 1995*” from the definition of *Chief Veterinary Officer* and substituting “*Biosecurity Act 2019*”.
2. Section 48(2)(a) is amended by omitting “inspector under the *Animal Health Act 1995*” and substituting “authorised officer under the *Biosecurity Act 2019*”.

Animal (Brands and Movement) Act 1984

1. Section 3 is amended as follows:
 - (a) by omitting “*Animal Health Act 1995*” from the definition of *animal* and substituting “*Biosecurity Act 2019*”;
 - (b) by omitting “*Animal Health Act 1995*” from the definition of *Chief Veterinary Officer* and substituting “*Biosecurity Act 2019*”;
 - (c) by omitting “*Animal Health Act 1995*” from the definition of *disease* and substituting “*Biosecurity Act 2019*”;

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- (d) by omitting the definition of *inspector* and substituting the following definition:

inspector means an authorised officer within the meaning of the *Biosecurity Act 2019*;

2. Section 6(4) is amended by omitting “*Animal Health Act 1995*” and substituting “*Biosecurity Act 2019*”.
3. Section 17 is amended by omitting “*Animal Health Act 1995*” and substituting “*Biosecurity Act 2019*”.
4. Section 22FA(4)(a) is amended by omitting “a restricted area, a control area or a protected area under the *Animal Health Act 1995*” and substituting “a biosecurity zone, an emergency zone or a control zone under the *Biosecurity Act 2019*”.

Animal Farming (Registration) Act 1994

1. Section 17 is amended by omitting paragraph (b) and substituting the following paragraph:
 - (b) authorised officers within the meaning of the *Biosecurity Act 2019*;

Animal Welfare Act 1993

1. Section 8(2)(h) is amended by omitting subparagraph (v) and substituting the following subparagraph:

(v) the purposes of controlling a disease specified in the *Biosecurity Act 2019* as a disease to which this section applies; or

Approvals (Deadlines) Act 1993

1. Schedule 1 is amended by omitting

Animal Health Act 1995

Special authority	60 days from the day on which an application under section 19 of the <i>Animal Health Act 1995</i> is received by the Chief Veterinary Officer.
Industry disease control program	180 days from the day on which the draft industry disease control program under section 47 of the <i>Animal Health Act 1995</i> is received by the responsible Minister.
Licence to collect, process or collect and process any semen, embryo or ovum	60 days from the day on which an application under the <i>Animal Health Act 1995</i> is received by the Chief Veterinary Officer.

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Permit	60 days from the day on which an application under the <i>Animal Health Act 1995</i> is received by the Chief Veterinary Officer, or inspector, who is to issue or refuse to issue the permit.
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Criminal Code Act 1924

1. Schedule 1 is amended as follows:
 - (a) by omitting from the heading to Chapter XXXIIA of Part VI “***Crimes Relating To List A Diseases of Animals***” and substituting “***Crimes Relating To Serious Animal Diseases***”;
 - (b) by omitting “*Animal Health Act 1995*” from the definition of *animal* in section 287A and substituting “*Biosecurity Act 2019*”;
 - (c) by omitting the definitions of *List A disease* and *List A disease agent* from section 287A and substituting the following definitions:

serious animal disease means an animal disease, within the meaning of the *Biosecurity Act 2019*, that is prohibited matter within the meaning of that Act;

serious animal disease agent means a disease agent, within the meaning of the *Biosecurity Act 2019*, that is capable of causing a serious animal disease in an animal, animal product or animal food.

- (d) by omitting from section 287B(1) “List A” first occurring and substituting “serious animal”;
- (e) by omitting from the charge under section 287B(1) “List A” and substituting “serious animal”;
- (f) by omitting from section 287B(2)(a) “List A” and substituting “serious animal”;
- (g) by omitting from section 287B(2)(b) “List A” twice occurring and substituting “serious animal”;
- (h) by omitting from section 287B(2)(c) “List A” and substituting “serious animal”;
- (i) by omitting from the charge under section 287B(2) “List A” and substituting “serious animal”;
- (j) by omitting from section 287B(2A) “List A” first occurring and substituting “serious animal”;

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- (k) by omitting from the charge under section 287B(2A) “List A” and substituting “serious animal”;
- (l) by omitting from section 287B(3)(a) “*Animal Health Act 1995*” and substituting “*Biosecurity Act 2019*”;
- (m) by omitting from section 287B(3)(a) “List A” twice occurring and substituting “serious animal”.

Firearms Act 1996

1. Section 42 is amended by omitting paragraph (c) and substituting the following paragraph:

- (c) an authorised officer under the *Biosecurity Act 2019*; or

Nature Conservation Act 2002

1. Section 32(2) is amended by omitting paragraph (b) and substituting the following paragraph:

- (b) the *Biosecurity Act 2019*.

Vermin Control Act 2000

1. Section 3 is amended by omitting “inspector as defined in the *Animal Health Act 1995*” from the definition of *inspector* and substituting “authorised officer within the meaning of the *Biosecurity Act 2019*”.

**SCHEDULE 5 – CONSEQUENTIAL AMENDMENTS -
WEED MANAGEMENT ACT 1999**

Section 9

Boundary Fences Act 1908

1. Section 48(1)(b) is amended by omitting “declared weed, within the meaning of the *Weed Management Act 1999*” and substituting “weed within the meaning of the *Biosecurity Act 2019*”.

Rail Infrastructure Act 2007

1. Section 26(2)(g) is amended by omitting “*Weed Management Act 1999*” and substituting “*Biosecurity Act 2019*”.

Roads and Jetties Act 1935

1. Section 49(2)(d) is amended by omitting “declared weed within the meaning of the *Weed Management Act 1999*” and substituting “weed within the meaning of the *Biosecurity Act 2019*”.