

Authorised Version
Agriculture Legislation Amendment Act 2022
No. 22 of 2022

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Authorised Version



Victoria

Agriculture Legislation Amendment Act 2022[†]

No. 22 of 2022

[Assented to 15 June 2022]

The Parliament of Victoria enacts:

Part 1—Preliminary

1 Purposes

The purposes of this Act are—

- (a) to amend the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** in relation to inspection and enforcement powers and generally to improve the operation of that Act; and

- (b) to amend the **Catchment and Land Protection Act 1994**—
 - (i) to improve the controls for noxious weeds and pest animals; and
 - (ii) to strengthen inspection and enforcement powers; and
 - (iii) to amend offence provisions relating to the spreading of noxious weeds; and
 - (iv) to make other miscellaneous and consequential amendments; and
- (c) to amend the **Dairy Act 2000** in relation to officers and employees of Dairy Food Safety Victoria; and
- (d) to amend the **Drugs, Poisons and Controlled Substances Act 1981**—
 - (i) in relation to authorities for low-THC cannabis and licences to cultivate alkaloid poppies and process poppy straw; and
 - (ii) to provide for the supply of poisons or controlled substances between veterinary practitioners in response to animal health and welfare emergencies; and
- (e) to amend the **Farm Debt Mediation Act 2011** to streamline the operation of that Act and increase harmonisation with other jurisdictions; and
- (f) to amend the **Livestock Disease Control Act 1994** generally to improve the operation of that Act; and
- (g) to amend the **Plant Biosecurity Act 2010** in relation to assurance certificates, plant health certificates, plant health declarations, the sale

- of diseased plants, the detention and seizure of plant and plant products, border security and fees and charges for beehives; and
- (h) to amend the **Rural Assistance Schemes Act 2016** in relation to the appointment of the Rural Assistance Commissioner and the delegation of certain powers, duties or functions under that Act; and
- (i) to amend the **Veterinary Practice Act 1997**—
- (i) in relation to specific registrations; and
 - (ii) to provide for conditions to be imposed on registrations of veterinary practitioners pending investigations or hearings; and
 - (iii) to provide for the removal of a person's details from the register if they are no longer registered as a veterinary practitioner; and
 - (iv) to amend certain offences to make them more suitable for infringement notices; and
 - (v) to replace the current secrecy provision with a duty of disclosure provision; and
 - (vi) to make other miscellaneous and consequential amendments; and
- (j) to amend the **Wildlife Act 1975** to clarify an exception for the offence against entering or remaining in a specified hunting area during certain times; and
- (k) to amend the **Meat Industry Act 1993** in relation to the slaughter of animals and the sale of meat.

2 Commencement

- (1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.
- (2) If a provision of this Act does not come into operation before 5 April 2023, it comes into operation on that day.

Part 2—Amendment of Agricultural and Veterinary Chemicals (Control of Use) Act 1992

Division 1—Inspection and enforcement powers

3 Definitions

In section 4(1) of the **Agricultural and
Veterinary Chemicals (Control of Use)
Act 1992** insert the following definitions—

"inspect, in relation to a power to inspect, includes
search;

place includes—

- (a) any land; and
- (b) any temporary building or structure;

Note

See the definition of *land* in section 38 of the
Interpretation of Legislation Act 1984."

4 Contaminated stock notice

In section 49(1) of the **Agricultural and
Veterinary Chemicals (Control of Use)
Act 1992**, after "vehicle" (where twice occurring)
insert ", vessel or aircraft".

5 Contaminated produce notice

In section 52(3)(d) of the **Agricultural and
Veterinary Chemicals (Control of Use)
Act 1992**, for "driver of any vehicle" **substitute**
"driver or person in charge of any vehicle, vessel
or aircraft".

6 Part 8 heading substituted

For the heading to Part 8 of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** substitute—

"Part 8—Compliance, inspection and testing".

7 New Division 1 heading inserted in Part 8

Before section 53 of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** insert—

"Division 1—Authorised officers".

8 Authorised officers

- (1) In section 53(2) of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992**, for "identification" substitute "identity".
- (2) For section 53(3) of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** substitute—
 - "(3) If requested to do so, an authorised officer must produce the authorised officer's identity card for inspection—
 - (a) before exercising a power under this Act; and
 - (b) at any time during the exercise of any such power.
- (4) Subsection (3) does not apply—
 - (a) if the request is unreasonable in the circumstances; or
 - (b) to a power exercised by post or electronic communication."

9 New Division 2 inserted in Part 8

After section 53 of the **Agricultural and
Veterinary Chemicals (Control of Use)
Act 1992** insert—

**"Division 2—General powers of
authorised officers**

53A Purpose of exercise of powers

An authorised officer may exercise powers
under this Division for any of the following
purposes—

- (a) determining whether this Act, the
regulations or an Order or a notice
under this Act is being or has been
complied with;
- (b) preventing the commission of an
offence against this Act or the
regulations;
- (c) determining the source of agricultural
spraying or the cause of land, water,
animals, stock or agricultural produce
being contaminated by agricultural or
veterinary chemicals."

**10 Section 54 substituted and new sections 54A to 54AJ
inserted**

For section 54 of the **Agricultural and
Veterinary Chemicals (Control of Use)
Act 1992** substitute—

"54 Power to enter and inspect

- (1) An authorised officer may at any reasonable
time enter and inspect any place, other than a
place occupied as a residence, and inspect
anything found at that place, if the authorised
officer reasonably suspects that—

- (a) any fertiliser or stock food has been, is being or may be manufactured at the place; or
 - (b) any chemical product, fertiliser or stock food has been, is being or may be sold, kept, stored or prepared for use at the place; or
 - (c) there is any equipment at the place that has been, is being or may be used in connection with the use or manufacture of a chemical product, fertiliser or stock food; or
 - (d) there is an aircraft at the place that has been, is being or may be used for aerial spraying; or
 - (e) agricultural spraying has been, is being or may be carried on at the place; or
 - (f) there is any contaminated stock or agricultural produce, or plants from which contaminated agricultural produce is likely to be derived, at the place; or
 - (g) the place has been contaminated by the use of an agricultural chemical product; or
 - (h) the place is occupied or apparently occupied by a person who holds, or whom the authorised officer reasonably suspects is required to hold, a licence, certificate or permit under this Act, the regulations or an Order under this Act.
- (2) An authorised officer may at any reasonable time enter any place, other than a place occupied as a residence, if the authorised officer reasonably believes that it is necessary to do so in order to access another

place that may be entered under subsection (1).

- (3) In exercising any powers under this section, an authorised officer must—
- (a) cause as little inconvenience as possible; and
 - (b) not remain at the place any longer than is reasonably necessary.

54A Entry and inspection of a place when open to the public

An authorised officer may enter and inspect a place that is, at the time of entry, open to the public.

54AB Power to stop, enter and inspect vehicles, vessels and aircraft

- (1) An authorised officer may at any reasonable time stop any vehicle, vessel or aircraft the authorised officer reasonably believes or suspects is, has been or may be—
- (a) used to transport, keep or store any—
 - (i) chemical product, fertiliser or stock food; or
 - (ii) contaminated stock or agricultural produce; or
 - (iii) stock or plants from which contaminated agricultural produce is likely to be derived; or
 - (b) used for agricultural spraying.
- (2) An authorised officer may at any reasonable time enter and inspect—
- (a) a vehicle, vessel or aircraft stopped under subsection (1); or

- (b) any other vehicle, vessel or aircraft the authorised officer reasonably believes or suspects is, has been or may be used for a purpose described in subsection (1)(a) or (b).
- (3) If an authorised officer stops a vehicle, vessel or aircraft under subsection (1) but considers that it is not safe or practical to enter or inspect it, the authorised officer may require the driver or person in charge of the vehicle, vessel or aircraft to present it at some other reasonable time and place for inspection by an authorised officer.

54AC Announcement on entry

- (1) Immediately on entering a place, vehicle, vessel or aircraft under this Division, an authorised officer must take all reasonable steps to notify the occupier or apparent occupier of the place, or the driver or person in charge of the vehicle, vessel or aircraft, of the entry and produce the authorised officer's identity card for inspection by that person.
- (2) If the occupier, apparent occupier, driver or person in charge is not present when an authorised officer exercises a power of entry under this Division, the authorised officer must, on leaving the place, vehicle, vessel or aircraft, leave a notice setting out—
 - (a) the time of entry; and
 - (b) the purpose of entry; and
 - (c) a description of all things done while at the place or in the vehicle, vessel or aircraft; and
 - (d) the time of departure; and

- (e) the authorised officer's name and contact details.
- (3) An authorised officer is not required to comply with subsection (1) or (2) if—
 - (a) in the case of subsection (2), the authorised officer reasonably believes that the place is open to the public and that it would be impracticable to leave a notice at the place; or
 - (b) in either case—
 - (i) to comply with the subsection would unreasonably interfere with performing a function or exercising a power under this Act, the regulations or an Order or notice under this Act or cause unreasonable delay; or
 - (ii) the occupier or apparent occupier of the place or the owner or person in charge of the vehicle, vessel or aircraft has been notified in advance of the entry.

54AD Persons assisting authorised officer

- (1) An authorised officer may request the assistance of any person for the purpose of entry and inspection of a place, vehicle, vessel or aircraft and the taking of any other action under this Division.
- (2) If an authorised officer uses the assistance of an interpreter—
 - (a) a requirement made by the interpreter on the authorised officer's behalf is taken to be a requirement made by the authorised officer; and

- (b) an answer given to the interpreter is taken to be given to the authorised officer.

54AE Assistance from owner, occupier or person in charge

- (1) An authorised officer may require the owner, occupier or apparent occupier of a place, or the owner or person in charge of a vehicle, vessel or aircraft, entered by the authorised officer to provide the authorised officer with all reasonable assistance necessary to enable the authorised officer to perform functions or exercise powers under this Part.
- (2) Without limiting subsection (1), an authorised officer may require the owner, occupier or apparent occupier of a place, or the owner or person in charge of a vehicle, vessel or aircraft, entered by the authorised officer to provide adequate facilities and assistance to allow the safe and efficient handling of animals during inspection and the taking of samples or specimens.

54AF Opening packages and removing labels

An authorised officer may at any reasonable time do one or more of the following—

- (a) open any package, container or receptacle that the authorised officer reasonably suspects contains a chemical product, fertiliser or stock food;
- (b) remove any label or advice note, or any document purporting to be a label or advice note.

**54AG Analysis or examination of samples,
specimens and equipment**

- (1) An authorised officer may at any reasonable time take and remove for analysis or examination—
 - (a) samples of or from, or specimens of—
 - (i) any plant (whether alive or dead), animal (whether alive or dead), carcass, agricultural produce, air, soil or water or any material deposited on or in any object; or
 - (ii) any substance that the authorised officer reasonably suspects is a chemical product, fertiliser or stock food; or
 - (b) any equipment that the authorised officer reasonably suspects has been, is being or may be used for or in connection with—
 - (i) the sale or use of a chemical product, fertiliser or stock food; or
 - (ii) the manufacture of fertiliser or stock food; or
 - (iii) the transport or handling of agricultural produce, fertilisers or stock food.
- (2) An authorised officer may conduct, or arrange for the conducting of, any analysis or examination of a sample or specimen taken or removed under subsection (1).
- (3) An authorised officer who takes a sample or specimen under subsection (1)(a) must give a portion of the sample or specimen to the owner or person in possession of the item from which the sample or specimen was

taken, or the owner, occupier or apparent occupier of the land, or the owner or person in charge of the vehicle, vessel or aircraft, on which it was taken, if requested to do so by that person.

- (4) Subsection (3) does not apply if it would be impracticable in the circumstances for the authorised officer to comply with the request.

54AH Taking photographs and making recordings, sketches or drawings

An authorised officer may at any reasonable time take photographs, make any audio, visual or audiovisual recordings or make any sketches or drawings.

54AI Questioning and requiring information

An authorised officer may at any reasonable time require a person—

- (a) to answer a question to the best of that person's knowledge, information and belief; or
- (b) to take reasonable steps to provide information.

54AJ Producing documents

An authorised officer may at any reasonable time require a person to produce any document that the authorised officer reasonably requires and do any one or more of the following—

- (a) examine that document;
- (b) make copies of it or take extracts from it;

- (c) remove the document for as long as is reasonably necessary to make copies or take extracts."

11 New Division 3 heading inserted in Part 8

Before section 54B of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** insert—

"Division 3—Search warrants".

12 Announcement before entry

In the heading to section 54C of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992**, after "entry" insert "under warrant".

13 Authorised officer may seek Court order

Section 54E of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** is repealed.

14 New Division 4 heading inserted in Part 8 and statute law revision

- (1) Before section 54F of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** insert—

"Division 4—Dealing with seized documents and other things".

- (2) In section 54G(2) of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992**, for "inspector" substitute "authorised officer".

15 New Division 5 heading inserted in Part 8

Before section 54I of the **Agricultural and
Veterinary Chemicals (Control of Use)
Act 1992** insert—

**"Division 5—Offences and protection
against self-incrimination".**

16 New sections 54J to 54L inserted

After section 54I of the **Agricultural and
Veterinary Chemicals (Control of Use)
Act 1992** insert—

**"54J Failure to comply with requirement of
authorised officer**

A person must not, without reasonable
excuse, fail or refuse to comply with a
requirement of an authorised officer under
this Act.

Penalty: In the case of a corporation,
100 penalty units.

In any other case, 50 penalty
units.

Note

Section 72A applies to an offence against this section.

**54K Obstruction of authorised officer or
person assisting**

A person must not obstruct, threaten or
intimidate—

- (a) an authorised officer who is in the
course of performing functions or
exercising powers under this Act; or

(b) a person who is assisting an authorised officer in the performance of those functions or exercise of those powers.

Penalty: 100 penalty units.

Note

Section 72A applies to an offence against this section.

54L False or misleading conduct or information

A person must not provide any information or produce any document to, or engage in any other conduct towards, an authorised officer who is in the course of performing functions or exercising powers under this Act if the person knows that the information or conduct is, or the document contains any information that is, false or misleading in a material particular.

Penalty: In the case of a corporation,
100 penalty units.

In any other case, 50 penalty
units.

Note

Section 72A applies to an offence against this section."

17 New Division 6 heading inserted in Part 8

Before section 55 of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** insert—

"Division 6—Testing".

18 New Division 7 heading inserted in Part 8

Before section 57 of the **Agricultural and
Veterinary Chemicals (Control of Use)
Act 1992 insert—**

**"Division 7—Other compliance
measures".**

**19 Seizure of chemical products and agricultural
produce**

In section 57(3) of the **Agricultural and
Veterinary Chemicals (Control of Use)
Act 1992**, after "produce" **insert** "in a court of
competent jurisdiction as a debt".

20 Destruction notice

- (1) **Insert** the following heading to section 58 of the
**Agricultural and Veterinary Chemicals
(Control of Use) Act 1992—**

**"Notice to destroy or otherwise deal with
chemical products and agricultural
produce".**

- (2) In section 58 of the **Agricultural and Veterinary
Chemicals (Control of Use) Act 1992—**

- (a) in subsection (1)—
- (i) for "the destruction of" **substitute**
"that";
 - (ii) after "plants or stock" **insert**
"be destroyed or otherwise dealt with";
- (b) in subsection (2), after "destroyed" **insert**
"or otherwise dealt with";
- (c) in subsection (5), after "destroy" **insert**
"or otherwise deal with";

(d) in subsection (6), after "plants or stock"
insert "in a court of competent jurisdiction
as a debt".

21 New Part 8A heading inserted

Before section 64 of the **Agricultural and
Veterinary Chemicals (Control of Use)
Act 1992 insert—**

"Part 8A—Reviews and appeals".

**22 Criminal liability of officers of bodies corporate—
accessorial liability**

For section 72A(2)(j) of the **Agricultural and
Veterinary Chemicals (Control of Use)
Act 1992 substitute—**

"(j) section 54J;
(ja) section 54K;
(jb) section 54L;"

23 New Part 9A heading inserted

After section 73 of the **Agricultural and
Veterinary Chemicals (Control of Use)
Act 1992 insert—**

"Part 9A—General".

24 New section 73A inserted

Before section 74 of the **Agricultural and
Veterinary Chemicals (Control of Use)
Act 1992 insert—**

**"73A How requirements, notices and documents
may be made, given or served**

(1) A requirement may be made to a person by
an authorised officer under this Act by—

- (a) orally informing the person of the requirement; or
 - (b) giving written notice of the requirement to the person in accordance with subsection (2) or (3).
- (2) Any written notice or other document may be given to or served on a person (including a body corporate) under this Act—
- (a) in person; or
 - (b) by sending it by post to the person at the person's usual or last known residential or business address; or
 - (c) by leaving it at the person's usual or last known residential address with a person on the premises who is apparently at least 16 years old; or
 - (d) by leaving it at the person's usual or last known business address with a person who is apparently employed at the premises and is apparently at least 16 years old; or
 - (e) by sending it by electronic communication to the person at the person's usual or last known electronic address.
- (3) In addition to the methods in subsection (2), any written notice or other document may be given to or served on a body corporate under this Act by sending it by post or electronic communication to the body corporate at the head office, registered office or principal place of business of the body corporate."

Division 2—Labelling

25 Definitions

In section 4(1) of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992**—

(a) **insert** the following definition—

"approved label has the same meaning as in the AgVet Code of Victoria;"

(b) in the definition of *advice note*, after "label" **insert** "or an approved label".

26 Off-label use of chemical products

After section 19(9) of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** **insert**—

"(10) If there is an approved label for a chemical product at the time of use, a reference in this section to the label is a reference to the approved label for the chemical product at that time (whether or not the approved label is marked on or attached to the package of the chemical product), unless—

(a) the chemical product is used in accordance with written instructions issued by a veterinary practitioner in the course of veterinary practice; or

(b) the chemical product is a prescribed chemical product or is used in prescribed circumstances or both."

Division 3—Administrative arrangements

27 Definitions

- (1) In section 4(1) of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992**—
 - (a) **insert** the following definition—

"*Secretary* means Secretary to the Department;";
 - (b) the definition of *chief administrator* is **repealed**;
 - (c) for the definition of *Department* **substitute**—

"*Department* means Department of Jobs, Precincts and Regions;";
 - (d) the definition of *Secretary to the Department of Health* is **repealed**.
- (2) Section 4(6) of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** is **repealed**.

28 Land use restriction notice

In section 50 of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992**—

- (a) in subsection (1)—
 - (i) for "chief administrator" **substitute** "Secretary";
 - (ii) for "he or she" **substitute** "the Secretary";
- (b) in subsection (3), for "authorised officer" **substitute** "Secretary".

29 Confidentiality of commercial information

Section 63 of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** is repealed.

30 Updating references to chief administrator

In sections 18(3), 20(2), 26(1)(d), 51(1), (2) and (3), 53(1) and (2), 54B(1), 55(1) and (2)(c), 56(2)(c), 58(1), (3), (5) and (6), 60(1), (2) and (3), 61(1), 64(1), 67A(1), 67B(1), 71(1) and (2) and 74(1) of, and clauses 2, 3, 4, 5, 8, 9 and 10 of Schedule 1 to, the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992**, for "chief administrator" (wherever occurring) substitute "Secretary".

Part 3—Amendment of Catchment and Land Protection Act 1994

31 Contents of a notice

Section 38(5) of the **Catchment and Land Protection Act 1994** is repealed.

32 New section 58C inserted

After section 58B of the **Catchment and Land Protection Act 1994** insert—

"58C Declaration of notifiable species

- (1) The Minister, by notice published in the Government Gazette, may declare a State prohibited weed or a restricted pest animal to be a notifiable species.
- (2) A declaration must apply to the whole State.
- (3) A declaration comes into effect on the day on which the notice is published in the Government Gazette.
- (4) The Minister, by notice published in the Government Gazette, must vary a declaration under subsection (1) to remove a notifiable species from being subject to the declaration if—
 - (a) the notifiable species is no longer a State prohibited weed or a restricted pest animal; or
 - (b) the Minister is satisfied that the notifiable species has been eradicated or is not able to be eradicated; or
 - (c) the Minister is satisfied that the declaration is not delivering the expected benefits of the declaration or is ineffective in achieving the purpose of the declaration.

- (5) The Minister, by notice published in the Government Gazette, must revoke a declaration under subsection (1) if—
- (a) every notifiable species subject to the declaration is no longer a State prohibited weed or a restricted pest animal; or
 - (b) if the Minister is satisfied that every notifiable species subject to the declaration has been eradicated or is not able to be eradicated; or
 - (c) the Minister is satisfied that the declaration is not delivering the expected benefits of the declaration or is ineffective in achieving the purpose of the declaration; or
 - (d) the Minister is satisfied there is another reason why the declaration is no longer required.
- (6) A copy of a notice under subsection (1), (4) or (5) must be published—
- (a) in a daily newspaper circulating generally in Victoria; and
 - (b) on the Department's Internet site.
- (7) A declaration ceases to have effect on the day on which a notice under subsection (5) is published in the Government Gazette.
- (8) A person who suspects the presence of a notifiable species on land must without delay notify the Secretary of that fact by the quickest means of communication available to that person."

33 Removing particular vehicles or other things on to or from a road

- (1) In section 70A(1) of the **Catchment and Land Protection Act 1994**, for "a vehicle (together with any trailer)" **substitute** "a vehicle, trailer, machinery or equipment".
- (2) In section 70A(1) of the **Catchment and Land Protection Act 1994**, after "the vehicle" **insert** ", trailer, machinery or equipment".

34 Section 71 substituted and new sections 71A, 71B and 71C inserted

For section 71 of the **Catchment and Land Protection Act 1994 substitute—**

"71 Offences relating to the spread of noxious weeds

- (1) A person must not, without a permit from the Secretary, buy or offer to buy in Victoria any of the following—
 - (a) a noxious weed;
 - (b) the seeds of a noxious weed whether or not packed or mixed with the seeds of any other plants;
 - (c) part of a noxious weed that is capable of growing whether or not packed or mixed with the parts of any other plants.

Penalty: 480 penalty units, in the case of a State prohibited weed or part of that weed.

240 penalty units, in the case of a regionally prohibited weed or part of that weed.

60 penalty units, in the case of a regionally controlled weed or part of that weed.

60 penalty units, in the case of a restricted weed or part of that weed.

(2) A person must not, without a permit from the Secretary, sell or offer to sell in Victoria any of the following—

- (a) a noxious weed;
- (b) the seeds of a noxious weed whether or not packed or mixed with the seeds of any other plants;
- (c) part of a noxious weed that is capable of growing whether or not packed or mixed with the parts of any other plants.

Penalty: 480 penalty units, in the case of a State prohibited weed or part of that weed.

240 penalty units, in the case of a regionally prohibited weed or part of that weed.

60 penalty units, in the case of a regionally controlled weed or part of that weed.

60 penalty units, in the case of a restricted weed or part of that weed.

(3) A person must not, without a permit from the Secretary, possess for the purposes of sale in Victoria any of the following—

- (a) a noxious weed;

- (b) the seeds of a noxious weed whether or not packed or mixed with the seeds of any other plants;
- (c) part of a noxious weed that is capable of growing whether or not packed or mixed with the parts of any other plants.

Penalty: 480 penalty units, in the case of a State prohibited weed or part of that weed.

240 penalty units, in the case of a regionally prohibited weed or part of that weed.

60 penalty units, in the case of a regionally controlled weed or part of that weed.

60 penalty units, in the case of a restricted weed or part of that weed.

- (4) A person must not, without a permit from the Secretary, display in Victoria any of the following—

- (a) a noxious weed;
- (b) the seeds of a noxious weed whether or not packed or mixed with the seeds of any other plants;
- (c) part of a noxious weed that is capable of growing whether or not packed or mixed with the parts of any other plants.

Penalty: 480 penalty units, in the case of a State prohibited weed or part of that weed.

240 penalty units, in the case of a regionally prohibited weed or part of that weed.

60 penalty units, in the case of a regionally controlled weed or part of that weed.

60 penalty units, in the case of a restricted weed or part of that weed.

- (5) A person must not, without a permit from the Secretary, plant or propagate in Victoria any of the following—
- (a) a noxious weed;
 - (b) the seeds of a noxious weed whether or not packed or mixed with the seeds of any other plants;
 - (c) part of a noxious weed that is capable of growing whether or not packed or mixed with the parts of any other plants.

Penalty: 480 penalty units, in the case of a State prohibited weed or part of that weed.

240 penalty units, in the case of a regionally prohibited weed or part of that weed.

60 penalty units, in the case of a regionally controlled weed or part of that weed.

60 penalty units, in the case of a restricted weed or part of that weed.

(6) A person must not, without a permit from the Secretary, wilfully bring or cause to be brought into Victoria any of the following—

- (a) a noxious weed;
- (b) the seeds of a noxious weed whether or not packed or mixed with the seeds of any other plants;
- (c) part of a noxious weed that is capable of growing whether or not packed or mixed with the parts of any other plants.

Penalty: 480 penalty units, in the case of a State prohibited weed or part of that weed.

240 penalty units, in the case of a regionally prohibited weed or part of that weed.

60 penalty units, in the case of a regionally controlled weed or part of that weed.

60 penalty units, in the case of a restricted weed or part of that weed.

(7) A person must not, without a permit from the Secretary, transport within Victoria any of the following—

- (a) a noxious weed;
- (b) the seeds of a noxious weed whether or not packed or mixed with the seeds of any other plants;
- (c) part of a noxious weed that is capable of growing whether or not packed or mixed with the parts of any other plants.

- Penalty: 480 penalty units, in the case of a State prohibited weed or part of that weed.
- 240 penalty units, in the case of a regionally prohibited weed or part of that weed.
- 60 penalty units, in the case of a regionally controlled weed or part of that weed.
- 60 penalty units, in the case of a restricted weed or part of that weed.
- (8) A person must not, without a permit from the Secretary, remove or cause to be removed, soil, sand, gravel or stone which—
- (a) contains a noxious weed; or
 - (b) contains or is likely to contain the seeds or any other part of a noxious weed that is capable of growing; or
 - (c) comes from land on which noxious weeds grow.

- Penalty: 480 penalty units, in the case of a State prohibited weed or part of that weed.
- 240 penalty units, in the case of a regionally prohibited weed or part of that weed.
- 60 penalty units, in the case of a regionally controlled weed or part of that weed.
- 60 penalty units, in the case of a restricted weed or part of that weed.

(9) A person must not, without a permit from the Secretary, sell soil, sand, gravel or stone which—

- (a) contains or is likely to contain any part of a noxious weed; or
- (b) contains or is likely to contain the seeds or any other part of a noxious weed that is capable of growing; or
- (c) comes from land on which noxious weeds grow.

Penalty: 480 penalty units, in the case of a State prohibited weed or part of that weed.

240 penalty units, in the case of a regionally prohibited weed or part of that weed.

60 penalty units, in the case of a regionally controlled weed or part of that weed.

60 penalty units, in the case of a restricted weed or part of that weed.

(10) A person must not, without a permit from the Secretary, remove or cause to be removed, fodder, grain or produce which contains the seeds or any other part of a noxious weed that is capable of growing.

Penalty: 480 penalty units, in the case of a State prohibited weed or part of that weed.

240 penalty units, in the case of a regionally prohibited weed or part of that weed.

60 penalty units, in the case of a regionally controlled weed or part of that weed.

60 penalty units, in the case of a restricted weed or part of that weed.

- (11) A person must not, without a permit from the Secretary, sell fodder, grain or produce which contains the seeds or any other part of a noxious weed that is capable of growing.

Penalty: 480 penalty units, in the case of a State prohibited weed or part of that weed.

240 penalty units, in the case of a regionally prohibited weed or part of that weed.

60 penalty units, in the case of a regionally controlled weed or part of that weed.

60 penalty units, in the case of a restricted weed or part of that weed.

- (12) A person must not, without a permit from the Secretary, remove or cause to be removed, a substance, vehicle, equipment or machinery or any other item that is used or intended to be used in primary production and which contains the seeds or any other part of a noxious weed that is capable of growing.

Penalty: 480 penalty units, in the case of a State prohibited weed or part of that weed.

240 penalty units, in the case of a regionally prohibited weed or part of that weed.

60 penalty units, in the case of a regionally controlled weed or part of that weed.

60 penalty units, in the case of a restricted weed or part of that weed.

- (13) A person must not, without a permit from the Secretary, sell or hire, or offer for hire, a substance, vehicle, equipment, machinery or other item that is used or intended to be used in primary production and which contains the seeds or any other part of a noxious weed that is capable of growing.

Penalty: 480 penalty units, in the case of a State prohibited weed or part of that weed.

240 penalty units, in the case of a regionally prohibited weed or part of that weed.

60 penalty units, in the case of a regionally controlled weed or part of that weed.

60 penalty units, in the case of a restricted weed or part of that weed.

- (14) A person must not, without a permit from the Secretary, sell an animal which is carrying the seeds or any other part of a noxious weed that is capable of growing.

Penalty: 480 penalty units, in the case of seeds of a State prohibited weed.

240 penalty units, in the case of seeds of a regionally prohibited weed.

60 penalty units, in the case of seeds of a regionally controlled weed.

60 penalty units, in the case of seeds of a restricted weed.

- (15) A person must not, without a permit from the Secretary, remove any materials used as bedding for animals that contain, or are likely to contain, the seeds or a part of a noxious weed that is capable of growing.

Penalty: 480 penalty units, in the case of a State prohibited weed or part of that weed.

240 penalty units, in the case of a regionally prohibited weed or part of that weed.

60 penalty units, in the case of a regionally controlled weed or part of that weed.

60 penalty units, in the case of a restricted weed or part of that weed.

- (16) A person must not, without a permit from the Secretary, sell any materials used as bedding for animals that contain, or are likely to contain, the seeds or a part of a noxious weed that is capable of growing.

Penalty: 480 penalty units, in the case of a State prohibited weed or part of that weed.

240 penalty units, in the case of a regionally prohibited weed or part of that weed.

60 penalty units, in the case of a regionally controlled weed or part of that weed.

60 penalty units, in the case of a restricted weed or part of that weed.

(17) A person must not, without a permit from the Secretary, deposit on land—

- (a) a noxious weed; or
- (b) the seeds of a noxious weed that are apparently capable of germinating.

Penalty: 480 penalty units, in the case of a State prohibited weed or part of that weed.

240 penalty units, in the case of a regionally prohibited weed or part of that weed.

60 penalty units, in the case of a regionally controlled weed or part of that weed.

60 penalty units, in the case of a restricted weed or part of that weed.

(18) Subsection (14) does not apply to the sale of farm animals direct to a meat processing facility within the meaning of the **Meat Industry Act 1993**.

71A Permits relating to noxious weeds

- (1) A person may apply to the Secretary in writing for a permit, or the renewal of a permit, to do any of the things referred to in section 71(1) to (17).
- (2) A person must apply for the renewal of a permit before the permit expires.

- (3) An application under subsection (1) must be accompanied by the fee (if any) determined in accordance with the **Conservation, Forests and Lands Act 1987** for applications of that kind.
- (4) Subject to this section, the Secretary may by instrument grant or refuse an application under subsection (1).
- (5) A permit may be granted for a period of up to 3 years which must be specified in the permit.
- (6) A permit—
 - (a) must state the acts or things to which it relates and the person to whom it applies; and
 - (b) may be general or limited in application; and
 - (c) may be subject to any conditions specified in the permit; and
 - (d) may require the payment of an annual fee (determined in accordance with the **Conservation, Forests and Lands Act 1987**) specified in the permit; and
 - (e) may provide for review of the annual fee.
- (7) A condition imposed on a permit may—
 - (a) provide that activities permitted under the permit are limited to being carried out by a specified person or person of a specified class of person on behalf of the permit holder; and
 - (b) limit the activities permitted under the permit to being carried out at specified areas or places or at specified times.

- (8) A person granted a permit must comply with its conditions.

Penalty: 120 penalty units.

71B Revocation of permit granted under section 71A

- (1) The Secretary, by notice served on the holder of a permit granted under section 71A, may revoke the permit if the holder has contravened this Act or any of the conditions of the permit.
- (2) Before revoking a permit, the Secretary must—
- (a) give notice of the proposal to the permit holder, specifying—
 - (i) the grounds for the proposed revocation; and
 - (ii) that the person may make written or oral submissions about the matter within 28 days after the date of service of the notice; and
 - (b) consider any submissions made in accordance with paragraph (a).

71C Permit holder may surrender permit

The holder of a permit granted under section 71A may, in writing to the Secretary, surrender the permit."

35 Destruction etc. of noxious weeds

For section 72(8) of the **Catchment and Land Protection Act 1994** substitute—

"(8) In this section—

goods means any animal or part of an animal or any other item or thing referred to in section 71(1) to (17);

infested goods means any goods that contain or are carrying a noxious weed or any seeds or other part of a noxious weed capable of growing."

36 Permits in relation to pest animals

- (1) In the heading to section 77 of the **Catchment and Land Protection Act 1994**, after "Permits" insert "in relation to pest animals".
- (2) For section 77(1) of the **Catchment and Land Protection Act 1994** substitute—
 - "(1) A person may apply to the Secretary in writing in a form approved by the Secretary for a permit, or the renewal of a permit, to—
 - (a) bring a pest animal into Victoria; or
 - (b) keep, sell or release a pest animal in Victoria.
 - (1A) A person must apply for the renewal of a permit before the permit expires."
- (3) In section 77(2) of the **Catchment and Land Protection Act 1994**, for "A permit application" substitute "An application under subsection (1)".
- (4) In section 77(5) of the **Catchment and Land Protection Act 1994**, after "a permit" insert ", or a renewal of a permit,".
- (5) For section 77(6) of the **Catchment and Land Protection Act 1994** substitute—
 - "(6) Those conditions may include but are not limited to conditions requiring any one or more of the following—
 - (a) the secure keeping of the animals;
 - (b) requiring animals to be sterilised;
 - (c) requiring animals to be identified (by implant, branding or otherwise);

- (d) limiting the number of animals which may be brought into Victoria, kept, sold or released;
 - (e) limiting activities permitted under the permit to being carried out by a specified person or person of a specified class of person on behalf of the permit holder;
 - (f) limiting activities permitted under the permit to being carried out at specified areas or places or at specified times."
- (6) For section 77(7) of the **Catchment and Land Protection Act 1994** substitute—
- "(7) A permit—
- (a) may be granted for a period of up to 10 years which must be specified in the permit; and
 - (b) may be limited to any place, species, animal or other circumstance, or to any class of these."

37 Revocation of permit granted under section 77

- (1) In the heading to section 78 of the **Catchment and Land Protection Act 1994**, after "permit" insert "granted under section 77".
- (2) In section 78(1) of the **Catchment and Land Protection Act 1994**, for "the permit holder" substitute "the holder of a permit granted under section 77".

38 New section 78A inserted

After section 78 of the **Catchment and Land Protection Act 1994** insert—

"78A Permit holder may surrender permit

The holder of a permit granted under section 77 may in writing to the Secretary surrender the permit."

39 New section 79B inserted

After section 79A of the **Catchment and Land Protection Act 1994** insert—

"79B Production of documents or records

An authorised officer may, on reasonable notice, for the purpose of ascertaining whether or not a person is complying with this Act or the regulations—

- (a) require by written notice—
 - (i) the person to produce any records or documents relating to the person (including financial, accounting or business records) that are kept by the person; or
 - (ii) the production of such records or documents by any other person who is holding those records or documents, or keeping such records or documents on behalf of the person referred to in subparagraph (i); and
- (b) examine those documents or records when so produced; and
- (c) make extracts, copies or notes of the contents of the documents or records."

40 Entry with notice

- (1) After section 81(1)(ab) of the **Catchment and Land Protection Act 1994** insert—

"(ac) for the purposes of ascertaining whether or not a regionally prohibited weed, regionally controlled weed or established pest animal is present or not present on the land; or".

- (2) For section 81(2) of the **Catchment and Land Protection Act 1994** substitute—

"(2) Subsection (1) does not apply to a dwelling."

- (3) For section 81(3)(c) of the **Catchment and Land Protection Act 1994** substitute—

"(c) without payment, take or require the occupier of the land to give samples of any goods (within the meaning of section 72(8)) found on the land."

- (4) In section 81(4) of the **Catchment and Land Protection Act 1994**—

(a) paragraphs (b), (c), (d) and (ea) are **repealed**;

(b) in paragraph (f) **omit** "with the consent of the occupier".

- (5) Section 81(5) and (6) of the **Catchment and Land Protection Act 1994** are **repealed**.

41 Emergency entry

- (1) In section 82(1)(a) of the **Catchment and Land Protection Act 1994**, for "is" substitute "may be".

(2) After section 82(4)(ba) of the **Catchment and Land Protection Act 1994** insert—

- "(bb) require a person to produce any document if the authorised officer reasonably believes it to be relevant for the purpose of ascertaining whether or not this Act and the regulations are being or have been complied with;
- (bc) examine any document produced under paragraph (bb) and take extracts or make copies of the document;
- (bd) remove any document produced under paragraph (bb) for so long as is reasonably necessary to take extracts or make copies of the document;"

42 Searches of vehicles and boats

- (1) For section 83D(1) of the **Catchment and Land Protection Act 1994**, for "he or she" substitute "the authorised officer or police officer".
- (2) For section 83D(2)(e) of the **Catchment and Land Protection Act 1994** substitute—

- "(e) seize any pest animal or thing found during the course of the search if the authorised officer or police officer believes on reasonable grounds that it is necessary to seize the animal or thing—
 - (i) in order to prevent its concealment, loss or destruction; and
 - (ii) its use in the commission, or the continuation of a commission, of an offence against Division 3 of Part 8."

43 Searches of vehicles, trailers, machinery and equipment for noxious weeds

- (1) In the heading to section 83E of the **Catchment and Land Protection Act 1994**, after "vehicles" insert ", trailers, machinery and equipment".
- (2) In section 83E(1) of the **Catchment and Land Protection Act 1994**—
 - (a) after "officer" (where first occurring) insert "or a police officer";
 - (b) after officer (where secondly occurring) insert "or police officer";
 - (c) after "vehicle" insert ", trailer, machinery or equipment".
- (3) For section 83E(2) of the **Catchment and Land Protection Act 1994** substitute—

"(2) An authorised officer or a police officer who conducts a search under this section may do any one or more of the following—

 - (a) direct the operator of a vehicle, trailer, machinery or equipment to ensure that it is free from the seeds of any noxious weeds and any other part of a noxious weed that is capable of growing;
 - (b) take steps to ensure that the vehicle, trailer, machinery or equipment is free from such seeds or any part of a noxious weed;
 - (c) inspect and take photographs (including video recordings) of the vehicle, trailer, machinery or equipment or any thing found during the course of the search;
 - (d) inspect and make copies of or take extracts from any document found during the course of the search."

44 New section 83EA inserted

After section 83E of the **Catchment and Land Protection Act 1994** insert—

"83EA Searches of personal property

An authorised officer may, at any time without a warrant, search any parcel, basket, bag, box or receptacle for any thing which the authorised officer reasonably believes has been, is being, or is likely to be, used in the importing, keeping, trading or releasing of pest animals or noxious weeds in contravention of this Act, and may do any one or more of the following—

- (a) inspect and take photographs (including video recordings) of any thing found during the course of the search;
- (b) with whatever assistance is required, take and keep samples of any of the following found during the course of the search—
 - (i) the blood, bodily fluids or other matter from any pest animal;
 - (ii) a noxious weed or any other thing;
- (c) with whatever assistance is required, destroy, mark or tag any pest animal found during the course of the search for the purpose of—
 - (i) eliminating any threat posed by the pest animal; or
 - (ii) later identifying it;
- (d) inspect and make copies of, or take extracts from, any document found during the course of the search;

- (e) seize any thing found during the course of the search if the authorised officer believes on reasonable grounds that it is necessary to seize the thing in order to prevent—
 - (i) its concealment, loss or destruction; or
 - (ii) its use in committing or continuing to commit an offence against this Act."

45 Offences relating to enforcement

In section 84(1) of the **Catchment and Land Protection Act 1994**, for "(1) A person" substitute "A person".

46 New section 84AA inserted and repeal of section 84(2) and (3)

For section 84(2) and (3) of the **Catchment and Land Protection Act 1994** substitute—

"84AA Protection against self-incrimination

- (1) Before an authorised officer requires a natural person to produce a document or record or answer a question under this Part, the authorised person must inform the person of the person's right under subsection (3).
- (2) A person is not excused from producing a document or record or answering a question if required to do so under this Part on the ground that the production of the document or record or the response to the question would tend to incriminate the person or make the person liable to a penalty.
- (3) Despite subsection (1), if, before producing a document or record or answering a question required under this Part a natural person claims that the production of the document

or record or the response to the question would tend to incriminate the person or make the person liable to a penalty, the document or record or response is not admissible in evidence against the person in any criminal or civil proceeding, or in any proceeding for the imposition of a penalty other than in a proceeding for an offence under section 84(e).

- (4) Subsection (2) does not apply to a person who is asked to state the person's name and address by an authorised officer in exercising a power under this Division."

47 Notices for the purposes of this Act

In section 85(1)(b) of the **Catchment and Land Protection Act 1994**, after "post," insert "or by electronic communication,".

48 New section 85B inserted

After section 85A of the **Catchment and Land Protection Act 1994** insert—

"85B Land owner must notify Secretary of transfer of land

- (1) The land owner of land who sells the land or transfers the management of the land to another person while the land is the subject of a land management notice, a priority area notice or a directions notice must give a written notice to the Secretary that complies with subsection (2) within 7 days after the sale or transfer.

Penalty: 10 penalty units.

- (2) For the purposes of subsection (1), the notice must include the following details—
- (a) the land owner's name and contact details;

- (b) the street address of the land;
- (c) the volume and folio numbers of the certificate of title for the land (if applicable) or the Crown allotment details of the land;
- (d) the number of the land management notice, priority area notice or directions notice that applies to the land;
- (e) the name and contact details of the new owner of the land or the new manager of the land (as the case maybe)."

49 New Division 3 inserted in Part 11

After Division 2 of Part 11 of the **Catchment and Land Protection Act 1994** insert—

**"Division 3—Agriculture Legislation
Amendment Act 2022**

109 Definition

In this Division—

amending Act means the **Agriculture Legislation Amendment Act 2022**.

**110 Transitional and savings provisions—
Agriculture Legislation Amendment
Act 2022**

- (1) Despite the commencement of section 34 of the amending Act a permit granted under section 71 as in force immediately before that commencement continues in force until the expiry of that permit.
- (2) The amendments made to this Act by section 34 of the amending Act apply only to offences alleged to have been committed on or after the commencement of that section.

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- (3) For the purposes of subsection (2), if an offence is alleged to have been committed between 2 dates, one before and one on or after the commencement of section 34 of the amending Act, the offence is alleged to have been committed before that commencement."

Part 4—Amendment of Dairy Act 2000

50 Definitions

In section 3 of the **Dairy Act 2000**, for the definition of *Department substitute*—

"Department means Department of Jobs, Precincts and Regions;"

51 Officers and employees

Section 18(5) of the **Dairy Act 2000** is **repealed**.

52 Sections 63 and 64 repealed

Sections 63 and 64 of the **Dairy Act 2000** are **repealed**.

Part 5—Amendment of Drugs, Poisons and Controlled Substances Act 1981

53 Definitions

In section 4(1) of the **Drugs, Poisons and
Controlled Substances Act 1981** insert—

"animal health and welfare emergency order
means an order made under section 22J;"

54 New Division 6 of Part II inserted

After Division 5 of Part II of the **Drugs, Poisons
and Controlled Substances Act 1981** insert—

**"Division 6—Animal health and welfare
emergencies**

22I Definitions

In this Division—

chief veterinary officer has the same
meaning as in the **Meat Industry
Act 1993**;

Secretary means the Department Head
(within the meaning of the **Public
Administration Act 2004**) of the
Department of Jobs, Precincts and
Regions.

22J When an animal health and welfare emergency order may be made

The Secretary may make an animal health
and welfare emergency order if the Secretary
believes it is necessary to do so—

- (a) to respond to, or prevent, an animal
health or welfare emergency; or
- (b) to address a serious risk to the health or
welfare of animals.

Examples

In response to a bushfire or for the purposes of preventing a biosecurity incident.

22K Matters to be specified in an animal health and welfare emergency order

An animal health and welfare emergency order must specify—

- (a) the nature of the animal health or welfare emergency or serious risk to the health or welfare of animals to which the order relates; and
- (b) if the animal health or welfare emergency or serious risk to animal health or welfare has occurred, the location or a description of the location that is affected; and
- (c) the persons or class of persons who may obtain and possess, store, use, sell or supply the poison or controlled substance or class of poison or controlled substance specified in the order; and
- (d) the persons or class of persons to whom any poison or controlled substance specified in the order may be sold or supplied; and
- (e) the poison or controlled substance or class of poison or controlled substance to which the order relates; and
- (f) the period during which the order is in force, not exceeding 6 months.

22L What an animal health and welfare emergency order authorises

- (1) An animal health and welfare emergency order authorises a person or class of persons specified in the order to obtain and possess, store, use, sell or supply a specified poison or controlled substance or class of poison or controlled substance in accordance with the order.
- (2) A person who has been sold or supplied a specified poison or controlled substance or class of poison or controlled substance in accordance with an animal health and welfare emergency order is authorised to possess and use that poison or controlled substance for the purpose for which it was sold or supplied.

22M Extending, amending and revoking orders

- (1) The Secretary, by subsequent order—
 - (a) may extend or further extend the period for which an animal health and welfare emergency order is in force for a subsequent period not exceeding 6 months; and
 - (b) may otherwise amend or vary an animal health and welfare emergency order.
- (2) The Secretary may revoke an animal health and welfare emergency order by subsequent order.

22N Delegation

The Secretary, by instrument, may delegate any powers or functions of the Secretary under this Division to the chief veterinary officer.

220 Orders under this Division to be published in Government Gazette

- (1) An order made under this Division must be published in the Government Gazette.
- (2) An order made under this Division commences—
 - (a) on the date specified in the order; or
 - (b) if no date is specified, on the date it is published in the Government Gazette."

55 Definitions

- (1) In section 61(1) of the **Drugs, Poisons and Controlled Substances Act 1981**—

- (a) **insert** the following definitions—

"minor term or condition means a term, condition, limitation or restriction prescribed under section 66(4);

national criminal history check, in relation to a person, means a check of the criminal history of the person in or outside of Australia with or through a police force or other authority of Victoria, another State, a Territory or the Commonwealth;

protected information means any information, document or thing the production or inspection of which—

- (a) is likely to reveal the identity of a person or a police officer who provided any information that is relevant to a decision of the Chief Commissioner of Police to—
 - (i) oppose the issuing or renewal of an authority; or

- (ii) request the suspension or cancellation of an authority;
or
 - (b) is likely to reveal the identity of a person whose name appears in any evidence given or information provided to a police officer in the course of any investigation; or
 - (c) is likely to reveal the identity of a person who is or has been the subject of an investigation conducted by a police officer; or
 - (d) is likely to reveal an investigation method, intelligence gathering method, investigative technique or technology or covert practice used by police officers; or
 - (e) is likely to jeopardise the safety of a person or police officer referred to in paragraph (a), (b) or (c); or
 - (f) is likely to put at risk any investigation by a police officer;
or
 - (g) may prejudice any investigation or criminal proceeding; or
 - (h) is otherwise not in the public interest;";
- (b) in the definition of *low-THC cannabis*, for "0.35" **substitute** "1.0";
- (c) for the definition of *serious offence* **substitute**—
"*serious offence* means—
- (a) an indictable offence involving dishonesty, fraud or assault; or

- (b) an offence under section 72B; or
 - (c) any offence under this Act with a penalty of imprisonment of more than one year; or
 - (d) an offence equivalent to an offence referred to in paragraphs (a), (b) or (c) under the law of another jurisdiction.";
- (d) in the definition of *Secretary*, for "Environment and Primary Industries" **substitute** "Jobs, Precincts and Regions".
- (2) In section 61(2) of the **Drugs, Poisons and Controlled Substances Act 1981**, for "section 64, a person" **substitute** "sections 63 and 64, a person who is 18 years of age or more".
- (3) In section 61(2)(c) of the **Drugs, Poisons and Controlled Substances Act 1981**, for "relative" **substitute** "spouse (including de facto spouse)".
- (4) In section 61(3) of the **Drugs, Poisons and Controlled Substances Act 1981**, the definition of *relative* is **repealed**.

56 Application for authority to cultivate and process low-THC cannabis

- (1) For section 62(1) of the **Drugs, Poisons and Controlled Substances Act 1981** **substitute**—
- "(1) A person may apply to the Secretary for an authority authorising that person, for commercial or research purposes relating to non-therapeutic use, to do one or more of the following—
- (a) to possess, process, sell or supply cannabis seed which has been harvested from low-THC cannabis;

- (b) to cultivate and possess low-THC cannabis which has been grown from seed which has been harvested from cannabis, where the leaves and flowering heads of the cannabis from which the seed has been harvested do not contain tetrahydrocannabinol in excess of 0.5 per cent;
 - (c) to possess, process, sell or supply low-THC cannabis which is substantially free of leaves and flowering heads."
- (2) In section 62(2) of the **Drugs, Poisons and Controlled Substances Act 1981**—
- (a) in paragraph (b), for "fee." substitute "fee; and";
 - (b) after paragraph (b) **insert**—
"(c) include any prescribed information."

57 Secretary must investigate application

- (1) For section 63(1) of the **Drugs, Poisons and Controlled Substances Act 1981** substitute—
- "(1) On receipt of an application under section 62, the Secretary—
- (a) must cause to be carried out all investigations and inquiries that the Secretary considers necessary to properly determine the application; and
 - (b) may conduct an inspection of an applicant's premises that relates to the application; and
 - (c) must require that an applicant or any associate of the applicant submit to the Secretary a national criminal history check that was undertaken within

6 months of the date it is submitted to the Secretary."

- (2) In section 63(2) of the **Drugs, Poisons and Controlled Substances Act 1981**—
- (a) for "may" **substitute** "must";
 - (b) for "Police" **substitute** "Police within 7 days of receiving the application and any supporting documentation".
- (3) For section 63(3) of the **Drugs, Poisons and Controlled Substances Act 1981 substitute**—
- "(3) The Chief Commissioner of Police must—
- (a) inquire into and report to the Secretary on any matters concerning the application that the Chief Commissioner of Police believes are appropriate or reasonably necessary; and
 - (b) inquire into and report to the Secretary on any matters concerning the application that the Secretary requests; and
 - (c) within 28 days of receiving the application from the Secretary—
 - (i) notify the Secretary in writing of the Chief Commissioner of Police's decision to oppose or not oppose the issuing of the authority; and
 - (ii) subject to section 69AC(1), provide the reasons for the decision to oppose or not oppose the issuing of the authority."

58 New section 63A inserted

After section 63 of the **Drugs, Poisons and Controlled Substances Act 1981** insert—

"63A When Secretary must refuse to issue authority

If the Secretary is notified under section 63(3)(c) that the Chief Commissioner of Police opposes the issuing of the authority, the Secretary must not issue the authority."

59 Matters to be considered in determining applications

In section 64(1)(c) of the **Drugs, Poisons and Controlled Substances Act 1981**, for "and proposed security arrangements" **substitute** ", proposed security arrangements and any other prescribed requirements".

60 Determination of applications

- (1) In section 65(1) of the **Drugs, Poisons and Controlled Substances Act 1981**, for "After" **substitute** "Subject to section 63A, after".
- (2) In section 65(2) of the **Drugs, Poisons and Controlled Substances Act 1981**, for "(1)." **substitute** "(1) within 21 days of making the decision."
- (3) After section 65(2) of the **Drugs, Poisons and Controlled Substances Act 1981** insert—
 - "(3) If the decision is to refuse to issue the authority, the Secretary must—
 - (a) notify the Chief Commissioner of Police that the Secretary has refused to issue the authority; and
 - (b) subject to section 69AC(2), provide reasons for that decision to the applicant; and

- (c) inform the applicant that they have the right to seek review of the Secretary's decision by VCAT."

61 Terms and conditions of authorities

After section 66(3) of the **Drugs, Poisons and Controlled Substances Act 1981** insert—

- "(4) An authority is subject to the terms, conditions, limitations and restrictions (if any) that are prescribed minor terms or conditions.
- (5) An authority is subject to any other prescribed terms, conditions, limitations and restrictions."

62 New section 66A inserted

After section 66 of the **Drugs, Poisons and Controlled Substances Act 1981** insert—

"66A Application of prescribed terms and conditions

- (1) A term, condition, limitation or restriction prescribed under section 66(4) or (5) applies to an authority on and from the prescribed date, being not less than 14 days after the commencement of the regulations that prescribe the term, condition, limitation or restriction.
- (2) The Secretary must give the holder of an authority written notice of any term, condition, limitation or restriction under subsection (1) to which the authority is subject."

63 Renewal of authorities

(1) In section 67(1)(a) of the **Drugs, Poisons and Controlled Substances Act 1981**, for "may be made up to one month" **substitute** "must be made at least 60 days".

(2) For section 67(2) of the **Drugs, Poisons and Controlled Substances Act 1981 substitute—**

"(2) On receipt of an application for renewal under subsection (1), the Secretary—

- (a) must cause to be carried out all investigations and inquiries that the Secretary considers necessary to properly determine the application; and
- (b) may conduct an inspection of the premises or site to which the authority relates; and
- (c) must refer a copy of the application and any supporting documentation to the Chief Commissioner of Police within 7 days of receiving the application and any supporting documentation.

(2A) The Chief Commissioner of Police must—

- (a) inquire into and report to the Secretary on any matters concerning the application that the Chief Commissioner of Police believes are appropriate or reasonably necessary; and
- (b) inquire into and report to the Secretary on any matters concerning the application that the Secretary requests; and

- (c) within 28 days of receiving the application from the Secretary—
 - (i) notify the Secretary in writing of the Chief Commissioner of Police's decision to oppose or not oppose the renewal of the authority; and
 - (ii) subject to section 69AC(1), provide the reasons for the decision to oppose or not oppose the renewal of the authority.
- (2B) If the Secretary is notified under subsection (2A)(c) that the Chief Commissioner of Police opposes the renewal of the authority, the Secretary must not renew the authority.
- (2C) Subject to subsection (2B), after considering a renewal application and any investigations under this section, the Secretary may—
 - (a) renew the authority; or
 - (b) refuse to renew the authority."
- (3) After section 67(3) of the **Drugs, Poisons and Controlled Substances Act 1981** insert—
 - "(4) The Secretary must—
 - (a) notify the applicant in writing of the decision under subsection (2C) within 21 days of making the decision; and
 - (b) if the Secretary refuses to renew the authority—
 - (i) notify the Chief Commissioner of Police that the Secretary has refused to renew the authority; and

- (ii) subject to section 69AC(2), provide reasons for that decision to the applicant; and
- (iii) inform the applicant that they have the right to seek review of the Secretary's decision by VCAT."

64 Suspension or cancellation

- (1) For section 69A(1)(d) of the **Drugs, Poisons and Controlled Substances Act 1981** substitute—
 - "(d) the Secretary is satisfied that the holder or any associate of the holder is no longer a fit and proper person to hold or be associated with, as the case requires, the authority; or".
- (2) After section 69A(1)(e) of the **Drugs, Poisons and Controlled Substances Act 1981** insert—
 - "(ea) the Chief Commissioner of Police requests suspension or cancellation on the basis of protected information concerning the holder or an associate of the holder; or".
- (3) In section 69A(2) of the **Drugs, Poisons and Controlled Substances Act 1981** omit "and any document issued to the former holder must be surrendered to the Secretary on demand".
- (4) After section 69A(2) of the **Drugs, Poisons and Controlled Substances Act 1981** insert—
 - "(3) For the purposes of subsection (1)(ea), the Chief Commissioner of Police may request that the Secretary suspend or cancel an authority on the basis of protected information at any time.
 - (4) The Chief Commissioner of Police must—
 - (a) request the suspension or cancellation of an authority in writing; and

- (b) subject to section 69AC(1), provide reasons for the request.
- (5) If the Chief Commissioner of Police requests the suspension or cancellation of an authority on the basis of protected information, the Secretary must suspend or cancel the authority (as the case requires).
- (6) If an authority is suspended or cancelled under subsection (1), the Secretary must—
 - (a) notify the Chief Commissioner of Police that the authority has been suspended or cancelled; and
 - (b) as soon as practicable—
 - (i) notify the former holder in writing that the authority has been suspended or cancelled (as the case requires); and
 - (ii) subject to section 69AC(2), provide reasons for the suspension or cancellation; and
 - (iii) inform the former holder that they have the right to seek review of the decision to suspend or cancel the authority by VCAT.
- (7) Within 14 days of receiving notice that an authority is suspended or cancelled under subsection (1), a person must surrender to the Secretary—
 - (a) the relevant authority; and
 - (b) any related document issued to the person.

Penalty: 20 penalty units."

65 New section 69AC inserted

After section 69AB of the **Drugs, Poisons and Controlled Substances Act 1981** insert—

"69AC Procedure for decisions based on protected information

- (1) If the Chief Commissioner of Police opposes the issuing or renewal of an authority, or requests the suspension or cancellation of an authority, wholly or partly based on protected information, the Chief Commissioner of Police may decide—
 - (a) to include the protected information in the reasons given to the Secretary under sections 63(3)(c)(ii), 67(2A)(c)(ii) or 69A(4)(b) and specify which information is protected information; or
 - (b) not to include the protected information in the reasons given to the Secretary under sections 63(3)(c)(ii), 67(2A)(c)(ii) or 69A(4)(b) and specify that—
 - (i) some or all of the Chief Commissioner of Police's decision is based on protected information; and
 - (ii) to the extent that the decision is based on protected information, reasons will not be given to the Secretary.
- (2) In giving reasons under sections 65(3)(b), 67(4)(b)(ii) or 69A(6)(b)(ii), the Secretary must—
 - (a) not disclose any protected information; and

(b) if the Secretary's decision is partially or wholly based on protected information, specify that some or all of the Secretary's decision is based on advice from the Chief Commissioner of Police."

(3) Section 8 of the **Administrative Law Act 1978** does not apply to a decision to which this section applies."

66 New sections 69BA, 69BB, 69BC, 69BD, 69BE and 69BF inserted

After section 69B of the **Drugs, Poisons and Controlled Substances Act 1981** insert—

"69BA VCAT to inquire on grounds for refusal

- (1) On receipt of an application for review under section 69B, VCAT must enquire of the Secretary whether the grounds for the refusal, suspension, cancellation or amendment were based on any protected information.
- (2) The Secretary must respond to VCAT's enquiry under subsection (1) in writing.

69BB Appointment of special counsel

- (1) VCAT must appoint a special counsel to represent the interests of the applicant if the Secretary informs VCAT under section 69BA(2) that a decision was based on protected information.
- (2) A special counsel must be a barrister within the meaning of the Legal Profession Uniform Law (Victoria) who, in the opinion of VCAT, has the appropriate skills and ability to represent the interests of the party at the hearing.

- (3) At any time before the special counsel attends the hearing or obtains any confidential affidavit in relation to the application for review, for the purpose of obtaining information or instructions from the party or representative in relation to the proceeding, the special counsel may communicate with—
 - (a) the party whose interests the special counsel is representing; or
 - (b) any representative of that party.
- (4) Subject to section 69BD(5), at any time after the special counsel commences to attend the hearing or obtains any confidential affidavit in relation to the application for review, the special counsel must not—
 - (a) take instructions from the party whose interests the special counsel is representing, or from any representative of that party; and
 - (b) communicate any other information in relation to the hearing to that party or a representative of that party without leave of VCAT, except to communicate any order made by VCAT at or in relation to the hearing.
- (5) A special counsel may be required to sign a confidentiality undertaking to VCAT.

69BC Procedure for hearing—protected information

- (1) If the Secretary informs VCAT under section 69BA(2) that the decision was based on protected information—

- (a) the Chief Commissioner of Police must be joined as a party to the proceeding; and
 - (b) at the hearing of the application for review, VCAT must first determine whether or not the information is protected information.
- (2) For the purposes of subsection (1)(b), VCAT must hold the hearing in private.
- (3) The following parties are entitled to be present at the hearing under subsection (2)—
 - (a) if protected information was included in the reasons given to the Secretary from the Chief Commissioner of Police under section 63(3)(c)(ii), 67(2A)(c)(ii) or 69A(4)(b), the Secretary, the Chief Commissioner of Police and the special counsel;
 - (b) if no protected information was included in the reasons given to the Secretary from the Chief Commissioner of Police under sections 63(3)(c)(ii), 67(2A)(c)(ii) or 69A(4)(b), the Chief Commissioner of Police and the special counsel only.
- (4) Each party that is entitled to be present at the hearing has a right to make submissions as to whether evidence supporting the grounds for the refusal to issue or renew the authority, or the cancellation or the suspension of the authority, amounts to protected information.
- (5) After hearing the parties under subsection (4), VCAT must decide whether or not any of the evidence adduced amounts to protected information.

- (6) If VCAT decides that none of the evidence adduced under subsection (4) amounts to protected information, VCAT must permit any party to attend the hearing that was excluded under subsection (3).

69BD Decision of VCAT where protected information exists

- (1) Without limiting any other power of VCAT conferred by or under this Part or any other Act, if VCAT decides that any of the evidence adduced under section 69BC(4) is protected information, only the following parties are entitled to be present at the hearing of the proceeding to the extent that it relates to that protected information—
- (a) the Chief Commissioner of Police; and
 - (b) the special counsel; and
 - (c) if the protected information was given to the Secretary by the Chief Commissioner of Police, the Secretary.
- (2) Each party that is entitled to be present at the hearing of the proceeding has a right to make submissions as to—
- (a) the weight that should be given to the evidence supporting the grounds for the refusal to issue or to renew the authority or the cancellation or the suspension of the authority that amounts to protected information and any other evidence adduced; and
 - (b) the character of the applicant, being evidence indicating whether the applicant is a fit and proper person to hold an authority; and

- (c) whether, in all the circumstances, the authority should be issued to the applicant, renewed or re-instated (as the case requires).
- (3) In determining a proceeding that involves protected information, VCAT must decide—
 - (a) what weight to give the protected information and any other evidence adduced; and
 - (b) whether the applicant is a fit and proper person to hold an authority; and
 - (c) whether, in all the circumstances, the authority should be issued to the applicant, renewed or reinstated (as the case requires).
- (4) If VCAT decides under section 69BC(5) that any evidence adduced is protected information, VCAT must take all steps and precautions to prevent release of that information.
- (5) If special counsel wishes to seek further instructions from the applicant in relation to the protected information, the special counsel must first submit written questions to VCAT for approval.
- (6) Before approving the written questions under subsection (5), VCAT must hear submissions from the Chief Commissioner of Police on the content of the questions.
- (7) Despite section 117 of the **Victorian Civil and Administrative Tribunal Act 1998**, any order made by VCAT in relation to a decision under this section must only state—
 - (a) whether the decision of the Secretary is upheld or overturned; and

- (b) if the authority is not issued, renewed or reinstated (as the case requires), that the applicant or each relevant person in relation to the application has failed to meet the fit and proper person requirements.
- (8) VCAT may publish reasons for its decision only to the extent that those reasons do not relate to protected information.

69BE Chief Commissioner of Police may request Secretary reconsider decision without protected information

- (1) At any time before a final determination has been made by VCAT in a proceeding under section 69BC or 69BD that involves protected information, the Chief Commissioner of Police may request the Secretary to reconsider the decision to refuse to issue or refuse to renew, or to suspend or cancel, the authority without relying on any report or decision of the Chief Commissioner of Police that was based on protected information.
- (2) If the Chief Commissioner of Police makes a request under subsection (1)—
 - (a) the Chief Commissioner of Police must advise VCAT that the request has been made; and
 - (b) VCAT—
 - (i) must remit the matter for re-consideration by the Secretary in accordance with the request; and
 - (ii) may make any orders that VCAT thinks fit; and

- (c) the Secretary must reconsider the decision as if sections 63A, 67(2B) and 69A(5) do not apply.
- (3) If the authority is issued or renewed or reinstated (as the case requires) the proceeding terminates immediately.

69BF General provisions for hearing matters involving protected information

- (1) For the purposes of a proceeding under section 69BC or 69BD that involves protected information, VCAT must be constituted by a presidential member.
- (2) The following provisions do not apply to a proceeding for as long as section 69BC or 69BD applies—
 - (a) Subdivision 1 of Division 3 of Part 3 and section 49 of the **Victorian Civil and Administrative Tribunal Act 1998**;
 - (b) section 8 of the **Administrative Law Act 1978**.
- (3) Subsection (2) does not apply to any extent that a proceeding does not involve protected information."

67 Section 69C substituted

For section 69C of the **Drugs, Poisons and Controlled Substances Act 1981** substitute—

"69C Offence to contravene authority

- (1) A person who is the holder of an authority must not contravene a minor term or condition to which the authority is subject.

Penalty: 20 penalty units.

- (2) A person who is the holder of an authority must not contravene a term, condition, limitation or restriction which is not a minor term or condition.

Penalty: 100 penalty units."

68 New sections 69LA and 69LB inserted

After section 69L of the **Drugs, Poisons and Controlled Substances Act 1981** insert—

"69LA Infringement notices

- (1) An inspector may serve an infringement notice on a person who the inspector has reason to believe has committed a prescribed offence.
- (2) An offence referred to in subsection (1) for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006**.

69LB Infringement penalty

The infringement penalty for an infringement offence against this Part is the prescribed infringement penalty for that offence."

69 Regulations

After section 69M(1)(b) of the **Drugs, Poisons and Controlled Substances Act 1981** insert—

- "(ba) prescribing terms, conditions, limitations and restrictions to which authorities are subject;
- (bb) prescribing terms, conditions, limitations or restrictions to be minor terms or conditions to which authorities are subject;
- (bc) prescribing the date any prescribed terms, conditions, limitations and restrictions, including minor terms or conditions, to which authorities are subject take effect;

- (bd) prescribing particulars to be included in any application for the issue or renewal of an authority, including but not limited to particulars in relation to the location, facilities and proposed security arrangements of a property or premises to which an application relates;
- (be) prescribing requirements in relation to the suitability of a property or premises for the cultivation, processing, sale or supply of low-THC cannabis;".

70 Definitions

In section 69N of the **Drugs, Poisons and Controlled Substances Act 1981**—

- (a) **insert** the following definition—

"national criminal history check, in relation to a person, means a check of the criminal history of the person in or outside of Australia with or through a police force or other authority of Victoria, another State, a Territory or the Commonwealth;";

- (b) for paragraph (a) of the definition of *protected information substitute*—

"(a) is likely to reveal the identity of a person or a police officer who provided any information that is relevant to a decision of the Chief Commissioner of Police to—

- (i) oppose the issue or renewal of a poppy cultivation licence or a poppy processing licence; or

- (ii) request the suspension or cancellation of a poppy cultivation licence or a poppy processing licence; or";
- (c) in paragraph (d) of the definition of ***protected information***, after "method" **insert** ", intelligence gathering method, investigative technique or technology or covert practice";
- (d) in paragraph (f) of the definition of ***protected information***, for "an ongoing" **substitute** "any";
- (e) after paragraph (f) of the definition of ***protected information*** **insert**—
"(fa) may prejudice any investigation or criminal proceeding; or";
- (f) in the definition of ***Secretary***, for "Environment and Primary Industries" **substitute** "Jobs, Precincts and Regions".

71 Secretary must investigate application

- (1) For section 69OA(1)(c) of the **Drugs, Poisons and Controlled Substances Act 1981** **substitute**—
"(c) must require that an applicant or any associate of the applicant submit to the Secretary a national criminal history check that was undertaken within 6 months of the date it is submitted to the Secretary."
- (2) In section 69OA(3)(c) of the **Drugs, Poisons and Controlled Substances Act 1981**, for "and" **substitute** "and, subject to section 69U(1),".
- (3) In section 69OA(4) of the **Drugs, Poisons and Controlled Substances Act 1981**, for "not issue the licence" **substitute** "refuse to issue the licence".

72 Determining an application

In section 69OB(4) of the **Drugs, Poisons and Controlled Substances Act 1981**—

- (a) in paragraph (a), after "(2)" **insert** "or (3) within 21 days of making the decision";
- (b) in paragraph (b), for "(3), provide reasons for the decision." **substitute** "(3)—
 - (i) notify the Chief Commissioner of Police that the Secretary has refused the application; and
 - (ii) subject to section 69U(2), provide reasons for that decision to the applicant; and
 - (iii) inform the applicant that they have the right to seek review of the Secretary's decision by VCAT."

73 Secretary must investigate renewal application

(1) For section 69OH(1)(c) of the **Drugs, Poisons and Controlled Substances Act 1981** **substitute**—

- "(c) must require that an applicant or any associate of the applicant submit to the Secretary a national criminal history check that was undertaken within 6 months of the date it is submitted to the Secretary."
- (2) In section 69OH(3)(c) of the **Drugs, Poisons and Controlled Substances Act 1981**, for "and" **substitute** "and, subject to section 69U(1),".
- (3) In section 69OH(4) of the **Drugs, Poisons and Controlled Substances Act 1981**, for "not renew the relevant licence" **substitute** "refuse to renew the licence".

74 Determining a renewal application

In section 69OI(5) of the **Drugs, Poisons and Controlled Substances Act 1981**—

- (a) in paragraph (a), after "(2)" **insert** "or (3) within 21 days of making the decision";
- (b) in paragraph (b), for "(3), provide reasons for the decision." **substitute** "(3)—
 - (i) notify the Chief Commissioner of Police that the Secretary has refused the application; and
 - (ii) subject to section 69U(2), provide reasons for that decision to the applicant; and
 - (iii) inform the applicant that they have the right to seek review of the Secretary's decision by VCAT."

75 Secretary must investigate application

- (1) For section 69PA(1)(c) of the **Drugs, Poisons and Controlled Substances Act 1981** **substitute**—
 - "(c) must require that an applicant or any associate of the applicant submit to the Secretary a national criminal history check that was undertaken within 6 months of the date it is submitted to the Secretary."
- (2) In section 69PA(3)(c) of the **Drugs, Poisons and Controlled Substances Act 1981**, for "and" **substitute** "and, subject to section 69U(1),".
- (3) In section 69PA(4) of the **Drugs, Poisons and Controlled Substances Act 1981**, for "not issue the licence" **substitute** "refuse to issue the licence".

76 Determining an application

In section 69PB(4) of the **Drugs, Poisons and Controlled Substances Act 1981**—

- (a) in paragraph (a), after "(2)" **insert** "or (3) within 21 days of making the decision";
- (b) in paragraph (b), for "(3), provide reasons for the decision." **substitute** "(3)—
 - (i) notify the Chief Commissioner of Police that the Secretary has refused the application; and
 - (ii) subject to section 69U(2), provide reasons for that decision to the applicant; and
 - (iii) inform the applicant that they have the right to seek review of the Secretary's decision by VCAT."

77 Secretary must investigate renewal application

- (1) For section 69PH(1)(c) of the **Drugs, Poisons and Controlled Substances Act 1981** **substitute**—
 - "(c) must require that an applicant or any associate of the applicant submit to the Secretary a national criminal history check that was undertaken within 6 months of the date it is submitted to the Secretary."
- (2) In section 69PH(3)(c) of the **Drugs, Poisons and Controlled Substances Act 1981**, for "and" **substitute** "and, subject to section 69U(1),".
- (3) In section 69PH(4) of the **Drugs, Poisons and Controlled Substances Act 1981**, for "not renew the licence" **substitute** "refuse to renew the licence".

78 Determining a renewal application

In section 69PI(5) of the **Drugs, Poisons and Controlled Substances Act 1981**—

- (a) in paragraph (a), after "(2)" **insert** "or (3) within 21 days of making the decision";
- (b) in paragraph (b), for "(3), provide reasons for the decision." **substitute** "(3)—
 - (i) notify the Chief Commissioner of Police that the Secretary has refused the renewal application; and
 - (ii) subject to section 69U(2), provide reasons for that decision to the applicant; and
 - (iii) inform the applicant that they have the right to seek review of the Secretary's decision by VCAT."

79 Suspension or cancellation of licences

(1) After section 69QA(1) of the **Drugs, Poisons and Controlled Substances Act 1981** **insert**—

- "(1A) For the purposes of subsection (1)(g), the Chief Commissioner of Police may request that the Secretary suspend or cancel a licence on the basis of protected information at any time.
- (1B) The Chief Commissioner of Police must—
 - (a) request the suspension or cancellation of a licence in writing; and
 - (b) subject to section 69U(1), provide reasons for the request.
- (1C) If the Chief Commissioner of Police requests the suspension or cancellation of a licence on the basis of protected information, the

Secretary must suspend or cancel the licence
(as the case requires).".

(2) In section 69QA(2) of the **Drugs, Poisons and
Controlled Substances Act 1981**—

(a) in paragraph (c), for "effect." **substitute**
"effect;";

(b) after paragraph (c) **insert**—

"(d) as soon as practicable—

(i) notify the former licenced grower
or former licenced processor in
writing that the relevant licence
has been suspended or cancelled
(as the case requires); and

(ii) subject to section 69U(2), provide
reasons for the suspension or
cancellation; and

(iii) inform the former licenced grower
or former licenced processor that
they have the right to seek review
of the decision to suspend or
cancel the licence by VCAT.".

**80 Refusal of licence or renewal of licence on grounds
of protected information**

For section 69U(1) and (2) of the **Drugs, Poisons
and Controlled Substances Act 1981**
substitute—

"(1) If the Chief Commissioner of Police opposes
the issuing or renewal of a poppy cultivation
licence or a poppy processing licence, or
requests the suspension or cancellation of a
poppy cultivation licence or a poppy
processing licence, wholly or partly based on
protected information, the Chief
Commissioner of Police may decide—

- (a) to include the protected information in the reasons given to the Secretary under section 69OA(3)(c), 69OH(3)(c), 69PA(3)(c), 69PH(3)(c) or 69QA(1B)(b) and specify which information is protected information; or
 - (b) not to include the protected information in the reasons given to the Secretary under section 69OA(3)(c), 69OH(3)(c), 69PA(3)(c), 69PH(3)(c) or 69QA(1B)(b) and specify that—
 - (i) some or all of the Chief Commissioner of Police's decision is based on protected information; and
 - (ii) to the extent that the decision is based on protected information, reasons will not be given to the Secretary.
- (2) In giving reasons under section 69OB(4)(b)(ii), 69OI(5)(b)(ii), 69PB(4)(b)(ii), 69PI(5)(b)(ii) or 69QA(2)(d)(ii) the Secretary must—
- (a) not disclose any protected information; and
 - (b) if the Secretary's decision is partially or wholly based on protected information, specify that some or all of the Secretary's decision is based on advice from the Chief Commissioner of Police."

81 Review by VCAT

Section 69UA(1)(b) of the **Drugs, Poisons and Controlled Substances Act 1981** is repealed.

82 VCAT to inquire on grounds for refusal

After section 69UB of the **Drugs, Poisons and Controlled Substances Act 1981** insert—

"(2) The Secretary must respond to VCAT's enquiry under subsection (1) in writing."

83 Appointment of special counsel

(1) For section 69UC(1) of the **Drugs, Poisons and Controlled Substances Act 1981** substitute—

"(1) VCAT must appoint a special counsel to represent the interests of the applicant if the Secretary informs VCAT under section 69UB(2) that the decision was based on protected information."

(2) In section 69UC(2) of the **Drugs, Poisons and Controlled Substances Act 1981**, for "**Legal Profession Act 2004**" substitute "**Legal Profession Uniform Law (Victoria)**".

84 Procedure for hearing—protected information

(1) For section 69UD(1) of the **Drugs, Poisons and Controlled Substances Act 1981** substitute—

"(1) If the Secretary informs VCAT under section 69UB(2) that the decision was based on protected information—

(a) the Chief Commissioner of Police must be joined as a party to the proceeding;
and

(b) at the hearing of the application, VCAT must first determine whether or not the information is protected information."

(2) In section 69UD(2) of the **Drugs, Poisons and Controlled Substances Act 1981**—

(a) for "(1)" substitute "(1)(b)";

- (b) for "may hold a hearing or any part of it" **substitute** "must hold the hearing".
- (3) For section 69UD(3) of the **Drugs, Poisons and Controlled Substances Act 1981** **substitute**—
- "(3) The following parties are entitled to be present at the hearing under subsection (2)—
- (a) if protected information was included in the reasons given to the Secretary from the Chief Commissioner of Police under sections 69OA(3)(c), 69OH(3)(c), 69PA(3)(c), 69PH(3)(c) or 69QA(1B)(b), the Secretary, the Chief Commissioner of Police and the special counsel;
 - (b) if no protected information was included in the reasons given to the Secretary from the Chief Commissioner of Police under sections 69OA(3)(c), 69OH(3)(c), 69PA(3)(c), 69PH(3)(c) or 69QA(1B)(b), the Chief Commissioner of Police and the special counsel only.
- (3A) Each party that is entitled to be present at the hearing has a right to make submissions as to whether evidence supporting the grounds for the refusal to issue or to renew the relevant licence, or the cancellation or the suspension of the relevant licence, amounts to protected information."
- (4) In section 69UD(4) of the **Drugs, Poisons and Controlled Substances Act 1981**, for "evidence of the Chief Commissioner of Police and the special counsel under subsection (3)" **substitute** "parties under subsection (3A)".

(5) For section 69UD(5) of the **Drugs, Poisons and Controlled Substances Act 1981** substitute—

"(5) If VCAT decides that none of the evidence adduced under subsection (3A) amounts to protected information, VCAT must permit any party to attend the hearing that was excluded under subsection (3)."

85 Decision of VCAT where protected information exists

(1) For section 69UE(1) of the **Drugs, Poisons and Controlled Substances Act 1981** substitute—

"(1) Without limiting any other power of VCAT conferred by or under this Part or any other Act, if VCAT decides that any of the evidence adduced under section 69UD(3A) is protected information, only the following parties are entitled to be present at the hearing of the proceeding to the extent that it relates to that protected information—

- (a) the Chief Commissioner of Police;
 - (b) the special counsel;
 - (c) if the protected information was given to the Secretary by the Chief Commissioner of Police, the Secretary.
- (1A) Each party that is entitled to be present at the hearing of the proceeding has the right to make submissions as to—
- (a) the weight that should be given to the evidence supporting the grounds for the refusal to issue or to renew the relevant licence, or the cancellation or the suspension of the relevant licence, that amounts to protected information and any other evidence adduced; and

- (b) the character of the applicant, being evidence indicating whether the applicant is a fit and proper person to hold a poppy cultivation licence or a poppy processing licence; and
 - (c) whether, in all the circumstances, the poppy cultivation licence or the poppy processing licence should be issued, renewed or re-instated to the applicant."
- (2) In section 69UE(2) of the **Drugs, Poisons and Controlled Substances Act 1981**—
- (a) for "making a determination in a proceeding to which subsection (1) applies" **substitute** "determining a proceeding that involves protected information";
 - (b) after paragraph (a) **insert**—
 - "(ab) whether the applicant is a fit and proper person to hold a poppy cultivation licence or a poppy processing licence (as the case requires); and";
 - (c) in paragraph (b), for "(as the case may be)" **substitute** "(as the case requires)".
- (3) In section 69UE(3) of the **Drugs, Poisons and Controlled Substances Act 1981**—
- (a) for "that any of the evidence adduced under section 69UD(3)" **substitute** "under section 69UD(4) that any evidence adduced";
 - (b) for paragraph (b) **substitute**—
 - "(b) if the special counsel wishes to seek further instructions from the applicant in relation to the protected information, the special counsel must first submit written question to VCAT for approval; and

(c) before approving the written questions under paragraph (b), VCAT must hear submissions from the Chief Commissioner of Police on the content of the questions."

(4) In section 69UE(5) of the **Drugs, Poisons and Controlled Substances Act 1981**—

(a) **omit** "For the avoidance of doubt,";

(b) after "decision" **insert** "only".

86 General provisions for hearing matters involving protected information

(1) For section 69UF(2) of the **Drugs, Poisons and Controlled Substances Act 1981** substitute—

"(2) At any time before a final determination has been made by VCAT in a proceeding under section 69UD or 69UE that involves protected information, the Chief Commissioner of Police may request the Secretary to re-consider the decision to refuse to issue or refuse to renew, or to suspend or cancel, the poppy cultivation licence or the poppy processing licence without relying on any report or decision of the Chief Commissioner of Police that was based on protected information.

(2A) If the Chief Commissioner of Police makes a request under subsection (2)—

(a) the Chief Commissioner of Police must advise VCAT that a request has been made; and

(b) VCAT—

(i) must remit the matter for re-consideration by the Secretary in accordance with the request; and

- (ii) may make any orders that VCAT thinks fit; and
- (c) the Secretary must reconsider the decision as if section 69OA(4), 69OH(4), 69PA(4), 69PH(4) or 69QA(1C) does not apply.
- (2B) If the poppy cultivation licence or the poppy processing licence is issued or renewed or reinstated (as the case requires), the proceeding terminates immediately."
- (2) In section 69UF(3) of the **Drugs, Poisons and Controlled Substances Act 1981**, for "sections 49 and 101" **substitute** "section 49".

87 Evidentiary

In section 119(ea) of the **Drugs, Poisons and Controlled Substances Act 1981**, for "Environment and Primary Industries" **substitute** "Jobs, Precincts and Regions".

88 Consequential amendment of Spent Convictions Act 2021

In Table 1 to section 22 of the **Spent Convictions Act 2021** insert—

"Secretary to the Department of Jobs, Precincts and Regions	Licensing for low-THC cannabis authorities	Drugs, Poisons and Controlled Substances Act 1981".
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Part 6—Amendment of Farm Debt Mediation Act 2011

89 Definitions

In section 3 of the **Farm Debt Mediation Act 2011**—

(a) **insert** the following definitions—

"approved form means a form approved by the Small Business Commission;

request for mediation means a notice given by a farmer under section 9(1)(a) or (b);"

(b) the definition of *Department* is **repealed**;

(c) in the definition of *farming operation*, after paragraph (b) **insert**—

"(ba) aquaculture;

(bb) forestry and timber production activities including the establishment, growing, maintenance and harvesting of forests;"

(d) for the definition of *hire purchase agreement substitute*—

"hire purchase agreement means a letting of goods with an option to purchase or an agreement for the purchase of goods by instalments (whether the agreement describes the instalments as rent or hire or otherwise), but does not include any agreement by which the property in the goods comprised in the agreement passes at the time of the agreement or on or at any time before the delivery of the goods;"

(e) the definition of *Secretary* is **repealed**.

90 Part 2 heading amended

In the heading to Part 2 of the **Farm Debt Mediation Act 2011**, for "Availability" substitute "Enforcement action and availability".

91 New Division 1AA inserted in Part 2

After the heading to Part 2 of the **Farm Debt Mediation Act 2011** insert—

"Division 1AA—Prohibition on enforcement action

7A Exemption certificate required for enforcement action

- (1) A creditor must not take enforcement action in relation to a farm mortgage unless an exemption certificate issued to the creditor is in force in respect of the farm mortgage.
- (2) This section does not invalidate any statutory enforcement notice or other process given, served or executed in order to fulfil a condition precedent to the taking of any enforcement action, but operates to prohibit the taking of the action concerned and the enforcement by a court or tribunal of any such notice or process.
- (3) Subsection (2) does not affect any proceedings authorised under section 16(6) to be continued or concluded after the expiry of an exemption certificate.
- (4) If a creditor does not take enforcement action before an exemption certificate expires, the creditor must not take enforcement action in relation to the farm mortgage until the creditor gives notice or further notice under

section 8 and obtains a new exemption certificate."

92 Sections 8 and 9 substituted

For sections 8 and 9 of the **Farm Debt Mediation Act 2011** substitute—

"8 Notice of intention to take enforcement action and availability of mediation

- (1) A creditor who intends to take enforcement action against a farmer in relation to a farm mortgage must give written notice to the farmer in accordance with subsection (2).
- (2) The notice—
 - (a) must state that—
 - (i) the creditor intends to take enforcement action under the farm mortgage; and
 - (ii) mediation between the farmer and the creditor is available; and
 - (iii) the farmer may respond to the notice within 21 days by requesting mediation; and
 - (iv) failure of the farmer to respond within 21 days may constitute grounds for the issue of an exemption certificate to allow the creditor to proceed with the enforcement action; and
 - (b) must be in the approved form.
- (3) This section does not apply to a creditor if an exemption certificate is in force in respect of the farm mortgage.

9 Farmer may request mediation

- (1) A farmer may give a notice to a creditor requesting mediation concerning a farm debt if—
 - (a) the creditor has given the farmer a notice under section 8 in relation to the farm mortgage to which the debt relates; or
 - (b) the creditor has not given the farmer a notice under section 8 but the farmer is liable for the debt, whether or not the farmer is in default under the farm mortgage to which the debt relates.
- (2) A request for mediation must be in the approved form.
- (3) A request for mediation under subsection (1)(a) must be given within 21 days after the day on which the creditor gave the notice under section 8 to the farmer.

Note

Under section 15, a creditor may apply for an exemption certificate if—

- (a) the farmer fails to give the creditor a request for mediation under subsection (1)(a) within 21 days after the day on which the creditor gave the notice under section 8 to the farmer; or
- (b) the farmer gives the creditor a request for mediation under subsection (1)(a) or (b) but subsequently refuses to mediate."

93 Creditor may agree to or refuse mediation

(1) In section 10(1) of the **Farm Debt Mediation Act 2011**—

- (a) **omit** "under section 9";
- (b) for "in respect of the farm debt involved" **substitute** "concerning the farm debt to which the request relates".

(2) For section 10(2) of the **Farm Debt Mediation Act 2011 substitute**—

"(2) A notice under subsection (1) must be in the approved form."

(3) In section 10(3) of the **Farm Debt Mediation Act 2011**, for "made a request under section 9" **substitute** "given the creditor a request for mediation".

(4) In section 10(4) of the **Farm Debt Mediation Act 2011**—

- (a) for "made a request under section 9" **substitute** "given the creditor a request for mediation";
- (b) in paragraphs (a) and (b), for "Department" **substitute** "Small Business Commission".

94 Referral of mediation by Department

Section 11 of the **Farm Debt Mediation Act 2011** is repealed.

95 Enforcement action postponed to allow for mediation

Section 12 of the **Farm Debt Mediation Act 2011** is repealed.

96 Application by farmer for issue of prohibition certificate

(1) In section 13(1) of the **Farm Debt Mediation Act 2011**—

(a) for paragraph (b) **substitute**—

"(b) the farmer has given the creditor a request for mediation concerning the farm debt secured by the farm mortgage; and";

(b) in paragraph (c)(ii), for "a request to mediate" **substitute** "the request for mediation".

(2) For section 13(2) of the **Farm Debt Mediation Act 2011 substitute**—

"(2) An application for a prohibition certificate must be in the approved form.".

97 Issue of prohibition certificate

(1) In section 14(1) of the **Farm Debt Mediation Act 2011**—

(a) for "On the application" **substitute** "Subject to subsection (2), on the application";

(b) for paragraph (b) **substitute**—

"(b) the farmer has given the creditor a request for mediation concerning the farm debt secured by the farm mortgage; and";

(c) for paragraph (d)(iii) **substitute**—

"(iii) the creditor has failed to respond to the request for mediation within 21 days after receiving the request; or";

(d) in paragraph (d)(iv), for "a request was made by the farmer under section 9(1) or (2)" **substitute** "the request for mediation was given to the creditor".

(2) For section 14(2) of the **Farm Debt Mediation Act 2011 substitute**—

"(2) If a creditor has failed to respond to a request for mediation, the Small Business Commission may refuse to issue a prohibition certificate if satisfied that—

(a) the creditor's failure to respond is justified in the circumstances; and

(b) the creditor intends to mediate within a period that is reasonable in the circumstances."

98 Application by creditor for issue of exemption certificate

(1) For section 15(1)(c)(i) of the **Farm Debt Mediation Act 2011 substitute**—

"(i) has taken place concerning the farm debt to which the farm mortgage relates after the farmer, when in default under the farm mortgage, gave the creditor a request for mediation; or".

(2) For section 15(4) of the **Farm Debt Mediation Act 2011 substitute**—

"(4) An application for an exemption certificate must be in the approved form."

99 Issue of exemption certificate

(1) Section 16(1) of the **Farm Debt Mediation Act 2011 is repealed.**

(2) In section 16(2) of the **Farm Debt Mediation Act 2011**—

(a) for "On the application" **substitute**
"Subject to subsection (2A), on the application";

(b) for paragraph (c)(i) **substitute**—

"(i) the farmer, when in default under the farm mortgage, gave the creditor a request for mediation and, having regard to section 17, satisfactory mediation has taken place concerning the farm debt to which the farm mortgage relates; or".

(3) After section 16(2) of the **Farm Debt Mediation Act 2011** insert—

"(2A) If a farmer has refused or failed to mediate, the Small Business Commission may refuse to issue an exemption certificate if satisfied that—

(a) in the circumstances, the farmer is justified in refusing or failing to mediate; and

(b) the farmer intends to mediate within a period that is reasonable in the circumstances."

100 Calculation of period of exemption certificate

In section 18 of the **Farm Debt Mediation Act 2011**—

(a) in paragraph (c), for "Department" **substitute** "Small Business Commission";

(b) for paragraph (d) **substitute**—

"(d) if the farmer has failed to respond to the creditor within 21 days after the creditor gave the farmer a notice under

section 8, for the period commencing on the date of issue of the exemption certificate and ending on the third anniversary of the last day of that 21 day period; or";

(c) paragraph (e) is **repealed**.

101 When is a farmer or creditor presumed to have refused to mediate?

In section 19 of the **Farm Debt Mediation Act 2011**—

(a) in subsection (1)(b), for "Department" **substitute** "Small Business Commission";

(b) for subsection (1)(c) **substitute**—

"(c) the farmer has failed to respond to the creditor within 21 days after the creditor gave the farmer a notice under section 8.";

(c) in subsection (2)(b), for "Department" **substitute** "Small Business Commission".

102 Functions of the Small Business Commission

In section 20 of the **Farm Debt Mediation Act 2011**—

(a) in subsection (1)(a) **omit** "that are referred to the Commission by the Department";

(b) after subsection (1)(d) **insert**—

"(da) to approve forms for the purposes of this Act;";

(c) in subsection (2), for "and (d)" **substitute** ", (d) and (da)".

103 Section 22 substituted

For section 22 of the **Farm Debt Mediation Act 2011 substitute—**

"22 Small Business Commission to arrange mediation

As soon as practicable after receiving a notice under section 10(4), the Small Business Commission must arrange for the farm debt dispute to which the notice relates to be the subject of mediation by a mediator."

104 Conduct of mediation

In section 23(3)(a) of the **Farm Debt Mediation Act 2011 omit** "(within the meaning of the **Legal Profession Act 2004**)".

105 Manner of giving notices

(1) For section 32(1) of the **Farm Debt Mediation Act 2011 substitute—**

"(1) If this Act requires or permits a notice or other document to be given to the Small Business Commission, the notice or other document may be given by—

(a) leaving it at any office of the Small Business Commission; or

(b) sending it by post or electronic communication to any office of the Small Business Commission."

(2) In section 32(2) of the **Farm Debt Mediation Act 2011—**

(a) **omit** "the Department or";

(b) in paragraphs (a)(ii) and (b)(iii), for ", telex, facsimile or other electronic communication" **substitute** "or electronic communication".

106 Date notice or other document is given

In section 33(c) of the **Farm Debt Mediation Act 2011** omit "facsimile or some other form of".

107 New section 38 inserted

After section 37 of the **Farm Debt Mediation Act 2011** insert—

"38 Transitional provisions—Agriculture Legislation Amendment Act 2022

- (1) This Act, as in force immediately before the ALA commencement day, continues to apply in relation to—
 - (a) a creditor who commenced enforcement action in accordance with this Act as in force immediately before that day; and
 - (b) a farmer who, before the ALA commencement day, was given a notice under section 8 as in force at the time the notice was given; and
 - (c) a creditor who, before the ALA commencement day, was notified under section 9, as in force at the time the notice was given, that a farmer requests mediation.
- (2) This Act, as amended by the amending Act, applies to a farm debt incurred in relation to an activity referred to in paragraph (ba) or (bb) of the definition of *farming operation* in section 3—
 - (a) that is outstanding on the ALA commencement day irrespective of when the farm debt was incurred and in respect of which enforcement action has not commenced; or

- (b) that is incurred on or after the commencement day.
- (3) A form approved by the Secretary under section 8(2)(d) as in force immediately before the ALA commencement day is taken, on and after that day, to be an approved form for a notice under section 8(2)(b) until the Small Business Commission approves a form for that notice.
- (4) A form approved by the Secretary under section 9(4) as in force immediately before the ALA commencement day is taken, on and after that day, to be an approved form for a request for mediation under section 9(2) until the Small Business Commission approves a form for a request for mediation.
- (5) A form approved by the Secretary under section 10(2) as in force immediately before the ALA commencement day is taken, on and after that day, to be an approved form for a notice under section 10(2) until the Small Business Commission approves a form for that notice.
- (6) In this section—

ALA commencement day means the day on which Part 6 of the amending Act comes into operation;

amending Act means the **Agriculture Legislation Amendment Act 2022**;

Secretary means Secretary to the Department of Jobs, Precincts and Regions."

Part 7—Amendment of Livestock Disease Control Act 1994

108 Definitions

(1) In section 3(1) of the **Livestock Disease Control Act 1994**—

(a) **insert** the following definitions—

Department means Department of Jobs, Precincts and Regions;

registered beekeeper means a person who is registered as a beekeeper under this Act;

registered brand means a brand allotted to a registered beekeeper under section 48(3);

(b) in the definition of *Secretary* omit "of Environment and Primary Industries".

(2) Section 3(2) of the **Livestock Disease Control Act 1994** is **repealed**.

109 Section 9 substituted

For section 9 of the **Livestock Disease Control Act 1994** substitute—

"9 Identification of livestock

(1) A person must not dispatch cattle or livestock—

(a) for sale at saleyards; or

(b) for slaughter at an abattoir; or

(c) for disposal at a knackery—

unless the cattle or livestock is branded, tagged or identified in accordance with section 9A and in the prescribed manner.

Penalty: 60 penalty units.

- (2) A person must not, by auction or otherwise, sell cattle or livestock unless the cattle or livestock is branded, tagged or identified in accordance with section 9A and in the prescribed manner.

Penalty: 60 penalty units.

- (3) A person must not transport cattle or livestock—

(a) for sale at saleyards; or

(b) for slaughter at an abattoir; or

(c) for disposal at a knackery—

unless the cattle or livestock is branded, tagged or identified in accordance with section 9A and in the prescribed manner.

Penalty: 60 penalty units.

- (4) A person must not slaughter or dispose of cattle or livestock at premises licensed under the **Meat Industry Act 1993** unless the cattle or livestock is branded, tagged or identified in accordance with section 9A and in the prescribed manner.

Penalty: 60 penalty units.

- (5) A person must not process the carcase of cattle or livestock at premises licensed under the **Meat Industry Act 1993** unless the carcase is branded, tagged or identified in accordance with section 9A and in the prescribed manner.

Penalty: 60 penalty units.

- (6) A person must not move cattle or livestock, or the carcase of cattle or livestock, from one property to another property that has a different property identification code allocated to it, or has no property

identification code allocated to it, unless the cattle, livestock or carcase is branded, tagged or identified in accordance with section 9A and in the prescribed manner.

Penalty: 60 penalty units.

(7) In this section—

livestock means prescribed livestock or livestock of a prescribed species or class."

110 Permanent identification of livestock

In section 9A(1) of the **Livestock Disease Control Act 1994**, for "section 9(a), (b), (c) or (d)" **substitute** "section 9(1), (2), (3), (4), (5) or (6)".

111 Minister may declare that offences apply to certain materials specified in section 41(2) and (3)

For section 41B(3)(c) of the **Livestock Disease Control Act 1994 substitute**—

"(c) on the Department's website."

112 Section 42 substituted

For section 42 of the **Livestock Disease Control Act 1994 substitute**—

"42 Definitions and application

(1) In this Division—

biosolids means stabilised organic solids derived from the treatment of sewage;

exposed cattle or pigs means cattle or pigs that are or have been—

(a) on land used for depositing or spreading sewage or sewage treatment products, whether

intentionally or not, other than as permitted by section 43(3); or

- (b) fed with any pasture or crops grown on land on which sewage or sewage treatment products have been deposited or spread, whether intentionally or not, other than in accordance with the Secretary's approval under section 43(2) or as permitted by section 43(3); or
- (c) provided with, or given access to, recycled water obtained from a water corporation, other than as permitted by section 43(3A);

recycled water means water derived from sewage or trade waste that has been treated for the purposes of reuse;

sewage means any human excreta or domestic waterborne waste, whether untreated or partially treated, but does not include trade waste;

sewage treatment products means biosolids or recycled water;

sewerage district has the same meaning as in the **Water Act 1989**;

trade waste means—

- (a) any waterborne waste (other than sewage) which is suitable, according to the criteria of a water corporation, for discharge into the water corporation's sewerage system; or

(b) any other matter that is prescribed by regulations made under the **Water Act 1989** to be trade waste; or

(c) any other matter which is declared by a by-law made under the **Water Act 1989** to be trade waste;

water corporation has the same meaning as in the **Water Act 1989**.

- (2) The Minister, by Order published in the Government Gazette, may approve a standard of purification for sewage and sewage treatment products.
- (3) Nothing in this Division applies to sewage or sewage treatment products that have been purified to an approved standard in effect under subsection (2)."

113 No cattle or pigs on sewage land

In section 43 of the **Livestock Disease Control Act 1994**—

- (a) in subsection (1), for "night-soil or sewage" **substitute** "sewage or sewage treatment products";
- (b) in subsection (2), for "night-soil has" **substitute** "sewage treatment products have";
- (c) in subsections (2A), (3) and (3A), for "sewerage authority" (wherever occurring) **substitute** "water corporation";

(d) in subsection (4)—

(i) in paragraph (a), for "night-soil has"
substitute "sewage treatment products
have";

(ii) in paragraph (c), for "sewerage
authority" **substitute** "water
corporation";

(e) subsection (7) is **repealed**.

114 Sewerage authority may graze cattle

(1) **Insert** the following heading to section 44 of the
Livestock Disease Control Act 1994—

"Water corporation may graze cattle".

(2) In section 44(1) of the **Livestock Disease Control
Act 1994**—

(a) for "sewerage authority" (wherever
occurring) **substitute** "water corporation";

(b) for "night-soil or sewage" (where twice
occurring) **substitute** "sewage or sewage
treatment products";

(c) in paragraph (a), for "cysticercus bovis"
substitute "*Cysticercus bovis*".

(3) For section 44(2) of the **Livestock Disease
Control Act 1994 substitute**—

"(2) A water corporation referred to in subsection
(1) must notify the Secretary in writing of
any land under the control of that corporation
where sewage or sewage treatment products
are deposited or spread and cattle are grazed
or kept on the land."

115 New sections 44A and 44B inserted

After section 44 of the **Livestock Disease Control Act 1994** insert—

"44A Notification in relation to exposed cattle or pigs

- (1) The owner of relevant land in relation to exposed cattle or pigs must notify the Secretary in accordance with subsection (2).

Penalty: 120 penalty units.

- (2) The notification—

- (a) must be made in the prescribed manner and within the prescribed period; and
(b) must contain or be accompanied by the prescribed information (if any).

- (3) The Secretary may disclose any information contained in or accompanying a notification under subsection (1) to either or both of the following bodies, if the Secretary is satisfied that the information is relevant to the functions of the body—

- (a) the Environment Protection Authority;
(b) the water corporation of the sewerage district in which the relevant land is located.

- (4) In this section—

relevant land, in relation to exposed cattle or pigs, means the land referred to in paragraph (a) or (b) of the definition of ***exposed cattle or pigs*** in section 42 (as the case may be).

44B Offence to sell exposed cattle or pigs

- (1) The owner of exposed cattle or pigs must not, without the approval of the Secretary under subsection (2)—
- (a) send any of those cattle or pigs for slaughter; or
 - (b) sell any of those cattle or pigs, by auction or otherwise.

Penalty: 120 penalty units.

- (2) The Secretary may grant an approval for the purposes of subsection (1) and may impose any conditions on that approval.
- (3) The Secretary must have regard to the following matters before granting an approval under subsection (2)—
- (a) the purpose or intended use of the exposed cattle or pigs;
 - (b) whether the exposed cattle or pigs will be tagged, marked, branded or identified in accordance with this Act before being moved to another place;
 - (c) the measures taken, or to be taken, to limit the movement of the exposed cattle or pigs;
 - (d) the measures taken, or to be taken, to limit the exposure of the exposed cattle or pigs to infection by zoonotic organisms.

- (4) The owner of exposed cattle or pigs must comply with any conditions imposed on an approval of the Secretary under subsection (2).

Penalty: 120 penalty units."

116 Registration of beekeepers

(1) In section 48(1) of the **Livestock Disease Control Act 1994**, for "A person" substitute "Subject to subsection (5), a person".

(2) For section 48(2) of the **Livestock Disease Control Act 1994** substitute—

"(2) The fee for an application for registration or renewal of registration is the fee fixed by the Minister.

Note

See Division 1 of Part 7 for the procedure for grant or renewal of registration."

(3) In section 48(4A) of the **Livestock Disease Control Act 1994**—

(a) for "two years" substitute "2 years";

(b) for "section 49A" substitute "section 100".

(4) For section 48(5) of the **Livestock Disease Control Act 1994** substitute—

"(5) Subsection (1) does not apply to a person who is registered as a beekeeper under a corresponding provision of an Act of another State or a Territory if—

(a) the period during which the person keeps bees in Victoria does not exceed 3 months; and

(b) the person ensures that all of the person's hives are marked or branded with the mark or brand issued to the person in the State or Territory where the person is registered as a beekeeper."

117 Section 49A repealed

Section 49A of the **Livestock Disease Control Act 1994** is repealed.

118 Payment out of Fund

(1) After section 60(a) of the **Livestock Disease Control Act 1994** insert—

"(ab) subject to subsection (2), all expenses directly connected with activities associated with ensuring the welfare of domestic livestock that are affected by the eradication or control of any outbreak of an exotic disease; and".

(2) At the end of section 60 of the **Livestock Disease Control Act 1994** insert—

"(2) Expenses referred to in subsection (1)(ab) do not include remuneration for the ordinary hours of work of a person who is or would be employed under Part 3 of the **Public Administration Act 2004** irrespective of the relevant outbreak."

119 Payments out of the Honey Bee Compensation and Industry Development Fund

After section 67(3) of the **Livestock Disease Control Act 1994** insert—

"(4) A reference in subsection (2)(a) to payments for administering the provisions of this Act relating to bees includes payment of—

- (a) costs and expenses incurred in administering the Fund; and
- (b) costs incurred in appointing persons to the Apicultural Industry Advisory Committee; and

- (c) fees and allowances payable to members of the Apicultural Industry Advisory Committee; and
- (d) costs incurred in the provision of secretarial support to the Apicultural Industry Advisory Committee."

120 Apicultural Industry Advisory Committee

- (1) For section 70(3) of the **Livestock Disease Control Act 1994** substitute—

"(3) The Committee consists of a maximum of 9 members appointed by the Minister after considering any recommendations of the Secretary and having regard to each appointee's experience in one or more of the following areas—

- (a) the apicultural and allied industries;
- (b) biosecurity or market access;
- (c) quality assurance and food safety;
- (d) finance, legal practice or business management;
- (e) agricultural, animal or veterinary science;
- (f) public policy;
- (g) any other area the Minister considers relevant to the functions of the Committee."

- (2) Section 70(4) and (5) of the **Livestock Disease Control Act 1994** are repealed.

121 Payments out of the Cattle Compensation Fund

After section 72(4) of the **Livestock Disease Control Act 1994** insert—

- "(5) A reference in subsection (2)(a) to payments for administering the provisions of this Act relating to cattle includes payment of—
- (a) costs and expenses incurred in administering the Fund; and
 - (b) costs incurred in appointing persons to the Cattle Compensation Advisory Committee; and
 - (c) fees and allowances payable to members of the Cattle Compensation Advisory Committee; and
 - (d) costs incurred in the provision of secretarial support to the Cattle Compensation Advisory Committee."

122 Cattle Compensation Advisory Committee

- (1) For section 79(3) of the **Livestock Disease Control Act 1994** substitute—

- "(3) The Committee consists of a maximum of 9 members appointed by the Minister after considering any recommendations of the Secretary and having regard to each appointee's experience in one or more of the following areas—
- (a) the cattle and allied industries;
 - (b) biosecurity or market access;
 - (c) quality assurance and food safety;
 - (d) finance, legal practice or business management;
 - (e) agricultural, animal or veterinary science;

- (f) public policy;
 - (g) any other area the Minister considers relevant to the functions of the Committee."
- (2) Section 79(3A), (3B), (4), (5), (5A), (5B) and (5C) of the **Livestock Disease Control Act 1994** are **repealed**.

123 Payments out of the Sheep and Goat Compensation Fund

After section 79B(3) of the **Livestock Disease Control Act 1994** insert—

- "(4) A reference in subsection (2)(a) to payments for administering the provisions of this Act relating to sheep and goats includes payment of—
- (a) costs and expenses incurred in administering the Fund; and
 - (b) costs incurred in appointing persons to the Sheep and Goat Compensation Advisory Committee; and
 - (c) fees and allowances payable to members of the Sheep and Goat Compensation Advisory Committee; and
 - (d) costs incurred in the provision of secretarial support to the Sheep and Goat Compensation Advisory Committee."

124 Sections 79HA and 79HB repealed

Sections 79HA and 79HB of the **Livestock Disease Control Act 1994** are **repealed**.

125 Sheep and Goat Compensation Advisory Committee

(1) For section 79I(3) of the **Livestock Disease Control Act 1994** substitute—

"(3) The Committee consists of a maximum of 9 members appointed by the Minister after considering any recommendations of the Secretary and having regard to each appointee's experience in one or more of the following areas—

- (a) the sheep and goat and allied industries;
- (b) biosecurity or market access;
- (c) quality assurance and food safety;
- (d) finance, legal practice or business management;
- (e) agricultural, animal or veterinary science;
- (f) public policy;
- (g) any other area the Minister considers relevant to the functions of the Committee."

(2) Section 79I(3A), (3B), (4), (5), (5A), (5B) and (5C) of the **Livestock Disease Control Act 1994** are **repealed**.

126 Payments out of the Swine Compensation Fund

(1) For section 81(2) of the **Livestock Disease Control Act 1994** substitute—

"(2) The Minister may make payments from the Fund for the following—

- (a) administering the provisions of this Act relating to swine;
- (b) projects for the benefit of the swine industry in Victoria."

(2) After section 81(5) of the **Livestock Disease Control Act 1994** insert—

"(6) A reference in subsection (2)(a) to payments for administering the provisions of this Act relating to swine includes payment of—

- (a) costs and expenses incurred in administering the Fund; and
- (b) costs incurred in appointing persons to the Swine Industry Projects Advisory Committee; and
- (c) fees and allowances payable to members of the Swine Industry Projects Advisory Committee; and
- (d) costs incurred in the provision of secretarial support to the Swine Industry Projects Advisory Committee."

127 Swine Industry Projects Advisory Committee

(1) For section 87(3) of the **Livestock Disease Control Act 1994** substitute—

"(3) The Committee consists of a maximum of 9 members appointed by the Minister after considering any recommendations of the Secretary and having regard to each appointee's experience in one or more of the following areas—

- (a) the pig and pork and allied industries;
- (b) biosecurity or market access;
- (c) quality assurance and food safety;
- (d) finance, legal practice or business management;
- (e) agricultural, animal or veterinary science;

- (f) public policy;
- (g) any other area the Minister considers relevant to the functions of the Committee."

(2) Section 87(4) and (5) of the **Livestock Disease Control Act 1994** are repealed.

128 Applications

In section 97(2)(b) of the **Livestock Disease Control Act 1994**, after "information" insert "and copies of any prescribed records".

129 Grant or refusal

In section 98(3) of the **Livestock Disease Control Act 1994**, after "The Secretary may" insert "at any time".

130 Term of licence or registration

- (1) In section 99 of the **Livestock Disease Control Act 1994**, for "A licence" substitute "Subject to section 48(4A), a licence".
- (2) At the foot of section 99 of the **Livestock Disease Control Act 1994** insert—

"Note

Section 48(4A) provides that registration or renewal of registration as a beekeeper is for 2 years."

131 Delegations by Minister

- (1) In section 102(1) of the **Livestock Disease Control Act 1994**, after "under this Act" insert "or the regulations,".

(2) For section 102(2) of the **Livestock Disease Control Act 1994** substitute—

"(2) Despite subsection (1), the Minister may by instrument delegate—

- (a) to the chief veterinary officer of the Department any power under section 26 or 29; and
- (b) to the chief plant health officer of the Department a power under section 26 or 29 to the extent that the power relates to bees."

132 Delegations by Secretary

In section 103 of the **Livestock Disease Control Act 1994**, after "under this Act" insert "or the regulations".

133 Fees

For section 104(1) of the **Livestock Disease Control Act 1994** substitute—

- "(1) The Minister, by notice published in the Government Gazette, may fix fees to be paid for anything done—
- (a) in, or in connection with, the performance of a function or exercise of a power under this Act or the regulations or a legislative instrument made under this Act; or
 - (b) otherwise for the purpose of furthering the objectives of this Act."

134 Information collection

In section 107A of the **Livestock Disease Control Act 1994**—

- (a) in paragraph (a)—
 - (i) after "this Act" **insert** "or the regulations";
 - (ii) after "**1993**" **insert** "and regulations made under those Acts";
- (b) for paragraph (b) **substitute**—

"(b) the analysis of the information and the publication of the information in accordance with this Act or the regulations or the Act or regulations by or under which the records are required to be kept by the Secretary."

135 Records of notifications etc.

- (1) **Insert** the following heading to section 107B(1) of the **Livestock Disease Control Act 1994**—

"Record-keeping by Secretary and availability of records".
- (2) In section 107B(1) of the **Livestock Disease Control Act 1994**—
 - (a) for "and maintain records of" **substitute** "the following records and information";
 - (b) after paragraph (b) **insert**—
 - "(ba) records required by the regulations in connection with the movement of livestock;
 - (bb) records in connection with the tagging of livestock under section 9A;"

(c) after paragraph (c) **insert**—

"(ca) agreements entered into by the Secretary under section 17;

(cb) contracts entered into by the Secretary under section 18;"

(d) after paragraph (e) **insert**—

"(ea) records made or information collected by an inspector in connection with the performance of a function or exercise of a power under Division 2 or 3 of Part 8;"

(3) For section 107B(2), (3), (4), (4A) and (4B) of the **Livestock Disease Control Act 1994** **substitute**—

"(2) Records kept by the Secretary under subsection (1) may be made available to a relevant person in any of the following circumstances if—

(a) the Secretary is satisfied that making the record available—

(i) is in the public interest; or

(ii) will assist to prevent, monitor or control the spread of a disease; or

(iii) will assist the relevant person to protect domestic or export markets for livestock or livestock products;

(b) making the record available is for the purpose of—

(i) carrying out emergency planning, preparation, response or recovery;
or

(ii) reuniting livestock with its owner;
or

- (iii) the administration or enforcement of this Act or any other Act, or an Act of another State, a Territory or the Commonwealth, or regulations under any such Act; or
 - (iv) assisting the relevant person to perform a function or exercise a power under this Act or any other Act, or an Act of another State, a Territory or the Commonwealth, or regulations under any such Act; or
 - (v) a legal proceeding under this Act or any other Act, or an Act of another State, a Territory or the Commonwealth, or regulations under any such Act; or
 - (vi) a report of a legal proceeding referred to in subparagraph (v); or
 - (vii) protecting the safety of any person to whom the record relates or protecting public safety; or
 - (viii) research or analysis work, including surveys, relating to livestock disease or the objectives of this Act.
- (3) If required for the purposes of emergency planning, preparation, response or recovery of livestock disease, records kept by the Secretary under subsection (1) may be made available to a relevant person with the written authority of—
- (a) in the case of livestock other than bees, the chief veterinary officer of the Department; or

- (b) in the case of bees, the chief plant health officer of the Department.
- (4) The Secretary, the chief veterinary officer or the chief plant health officer (as the case requires) may place any conditions on the use or disclosure of the record by the relevant person.
- (4A) A record kept by the Secretary under subsection (1) may be made available to any person who applies for it in writing, if the record does not identify any person, body, property, animal or premises.
- (4B) A record kept by the Secretary under subsection (1) that identifies a person may be made available to any person with the written consent of the person identified."
- (4) In section 107B(5) of the **Livestock Disease Control Act 1994**, for "maintained" substitute "kept".
- (5) After section 107B(5) of the **Livestock Disease Control Act 1994** insert—
- "(6) In this section—
- relevant person* means—
- (a) a prescribed person or a person belonging to a prescribed class of person; or
 - (b) a person with whom the Secretary has entered into a contract; or
 - (c) an authorised officer within the meaning of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** or the **Wildlife Act 1975**; or

- (d) an authorized officer within the meaning of the **Drugs, Poisons and Controlled Substances Act 1981**; or
- (e) a meat inspector within the meaning of the **Stock (Seller Liability and Declarations) Act 1993**; or
- (f) an emergency services agency as defined in section 4(1) of the **Emergency Management Act 1986**; or
- (g) a person who is employed under Part 3 of the **Public Administration Act 2004** and is—
 - (i) approved as a general inspector under section 18(1) of the **Prevention of Cruelty to Animals Act 1986**; or
 - (ii) appointed as a specialist inspector under section 18A(1) of the **Prevention of Cruelty to Animals Act 1986**; or
- (h) a water corporation within the meaning of the **Water Act 1989**; or
- (i) any other officer or employee of a government department, agency or public statutory authority of the Commonwealth or a State or a Territory of the Commonwealth employed in the administration of this Act, the regulations, the

Agricultural and Veterinary Chemicals (Control of Use) Act 1992, the Stock (Seller Liability and Declarations) Act 1993, regulations made under those Acts or any prescribed Act of the Commonwealth or a State or a Territory of the Commonwealth or regulations made under any such Act."

136 General powers of inspectors

- (1) In section 109(1) of the **Livestock Disease Control Act 1994**—
- (a) in paragraph (c)—
- (i) after "produce" **insert** "(in any form or by any means including by means of electronic communication)";
 - (ii) after "document" (wherever occurring) **insert** "or other thing";
 - (iii) in subparagraph (iii), after "necessary" **insert** "for the purposes of analysis or";
- (b) for paragraph (e) **substitute**—
- "(e) take and remove for analysis or examination samples of or from, or specimens of, any land, vehicle, place or premises or any animal or other thing on, in or at the land, vehicle, place or premises;"
- (c) in paragraph (g), for "specimens." **substitute** "specimens;"
- (d) after paragraph (g) **insert**—
- "(h) make a sketch or any still or moving image or audio-visual recording of any land, vehicle, place or premises or any

animal or other thing on, in or at the
land, vehicle, place or premises."

- (2) In section 109(4) of the **Livestock Disease Control Act 1994**, after "produce" insert "(in person or by means of electronic communication)".

137 New section 115AB inserted

After section 115A of the **Livestock Disease Control Act 1994** insert—

"115AB Removal notice in relation to feeding of pigs

- (1) An inspector who believes on reasonable grounds that a contravention of section 41(1) has occurred, is occurring or is about to occur may, by notice in writing, direct the relevant person to remove, destroy or dispose of the material to which the contravention relates.
- (2) A notice under subsection (1)—
- (a) must specify—
 - (i) the material to which the direction applies; and
 - (ii) the time within which the relevant person is required to comply with the direction; and
 - (b) may specify the manner in which the direction is to be carried out.
- (3) If the relevant person is not at or in the premises, place or vehicle when the inspector proposes to give the direction to the relevant person, the inspector may leave the notice in a prominent place at or in the premises or place or on the vehicle or give the notice to

the relevant person by means of electronic communication.

- (4) A relevant person must not contravene a direction given under subsection (1).

Penalty: 60 penalty units.

- (5) In this section—

relevant person, in relation to a contravention of section 41(1), means the owner or person in charge or in apparent control of the premises, place or vehicle where the material to which the contravention relates is found."

138 Abandoned hives

For section 125(3) of the **Livestock Disease Control Act 1994** substitute—

- "(3) If hives bear the registered brand of a registered beekeeper or the mark or brand issued to a beekeeper in the State or Territory where they are registered as a beekeeper, an inspector must not dispose of the hives unless the inspector has given at least 7 days' notice to the beekeeper of the inspector's intention to do so."

139 Power to serve a notice

In section 126(1) of the **Livestock Disease Control Act 1994**—

- (a) for "9" substitute "9(1), 9(2), 9(3), 9(4), 9(5), 9(6)";
(b) after "16(2B)," insert "44A(1), 44A(2),".

140 Time for charging certain offences under this Act

In section 132A of the **Livestock Disease Control Act 1994**, after "8," insert "9B(6),".

141 Offence to make false or misleading statements

In section 137A of the **Livestock Disease Control Act 1994**—

- (a) for "furnishing" **substitute** "providing";
- (b) after "this Act" **insert** "or the regulations";
- (c) for "10 penalty units" **substitute** "60 penalty units".

142 Regulations

After regulation 139(1)(g) of the **Livestock Disease Control Act 1994** **insert**—

- "(ga) the making and keeping of records for the purposes of this Act or the regulations including, but not limited to—
- (i) the matters to be contained in records; and
 - (ii) the period for which records are to be kept; and
 - (iii) the manner in which records are to be kept; and
 - (iv) the provision of records to the Secretary;
- (gb) the advertising or publishing of notices containing property identification codes or prescribed information in relation to the movement or sale of livestock for the purposes of this Act or regulations under this Act including, but not limited to—
- (i) the matters to be contained in notices; and
 - (ii) the manner or place in which notices are to be advertised or published; and

- (iii) the duration for which notices are to be advertised or published;"

143 New section 150 inserted

After section 149 of the **Livestock Disease Control Act 1994** insert—

"150 Transitional provisions—Agriculture Legislation Amendment Act 2022

- (1) An Order referred to in section 42(2) (as in force immediately before the commencement of section 112 of the amending Act) that was in effect immediately before that commencement remains in effect after that commencement as if it had been made under section 42(2) as substituted by that Act.
- (2) An application under section 48 for registration as a beekeeper that was made but not decided before the commencement of section 116 of the amending Act is to be determined after that commencement in accordance with section 48(2) as in force immediately before that commencement.
- (3) An application under section 79HA that was made but not decided before the commencement of section 124 of the amending Act is to be determined after that commencement in accordance with section 79HB as in force immediately before that commencement.
- (4) A person who was a member of a Committee immediately before the relevant commencement day remains a member of the Committee on and after that day for the remainder of their term of appointment in accordance with their terms and conditions of appointment, unless the person is removed from office earlier by the Minister.

- (5) The amendment of section 97 by section 128 of the amending Act applies only in relation to applications referred to in section 97 that are made on or after the commencement of section 128 of the amending Act.
- (6) A notice in force under section 104(1) immediately before the commencement of section 133 of the amending Act continues in effect on and after that commencement, as if it were a notice made under section 104(1) as substituted by section 133 of the amending Act.
- (7) In this section—

amending Act means the **Agriculture Legislation Amendment Act 2022**;

Committee means—

- (a) the Apicultural Industry Advisory Committee; or
- (b) the Cattle Compensation Advisory Committee; or
- (c) the Sheep and Goat Compensation Advisory Committee; or
- (d) the Swine Industry Projects Advisory Committee;

relevant commencement day means—

- (a) in relation to the Apicultural Industry Advisory Committee, the day on which section 120 of the amending Act comes into operation; or
- (b) in relation to the Cattle Compensation Advisory Committee, the day on which

section 122 of the amending Act comes into operation; or

(c) in relation to the Sheep and Goat Compensation Advisory Committee, the day on which section 125 of the amending Act comes into operation; or

(d) in relation to the Swine Industry Projects Advisory Committee, the day on which section 127 of the amending Act comes into operation."

144 Amendment of Schedule 1—Membership and procedure of committees

(1) After clause 3 of Schedule 1 to the **Livestock Disease Control Act 1994** insert—

"3A Chairperson

- (1) The Minister must appoint one of the members of a Committee to be the chairperson of the Committee.
- (2) The appointment may be made in the instrument of appointment of the member or by any subsequent instrument."

(2) After clause 6 of Schedule 1 to the **Livestock Disease Control Act 1994** insert—

"6A Quorum

The quorum of a Committee is a majority of the members for the time being."

Part 8—Amendment of Plant Biosecurity Act 2010

145 Definitions

In section 3(1) of the **Plant Biosecurity Act 2010**—

(a) **insert** the following definition—

"Department means Department of Jobs, Precincts and Regions;"

(b) in the definition of *accredited person*, for "give" **substitute** "issue";

(c) for the definition of *inspector substitute*—

"inspector means a person appointed under section 61 or authorised under section 62;"

(d) for the definition of *plant health certificate substitute*—

"plant health certificate means a certificate—

(a) issued by an inspector or inspection agent; or

(b) issued by an officer of a department responsible for the agriculture of another State or Territory;"

(e) for the definition of *plant health declaration substitute*—

"plant health declaration means a declaration—

(a) issued by a person authorised under section 47A; or

(b) issued by a person authorised under a corresponding law to issue a plant health declaration or equivalent;"

(f) for the definition of *Secretary substitute*—

"*Secretary* means Secretary to the Department;"

146 Importation of prescribed material

For section 8(1C)(a)(ii) of the **Plant Biosecurity Act 2010 substitute**—

- "(ii) has been tested or treated in accordance with the requirements prescribed in the regulations; or
- (iii) meets the requirements (if any) determined by the Secretary and published on a website maintained by the Department; and"

147 Introduction of prescribed material

- (1) In the heading to section 10 of the **Plant Biosecurity Act 2010**, for "**prescribed material**" substitute "**plants and plant products**".
- (2) In section 10(1)(a) of the **Plant Biosecurity Act 2010**, for "prescribed material" substitute "plant or plant product".

148 Assurance certificates

In section 11 of the **Plant Biosecurity Act 2010**—

- (a) for "section 8(1C)(a)" substitute "section 8(1C)(b)(i)";
- (b) in paragraph (d), for "Secretary." substitute "Secretary, if issued by a person accredited under section 48."

149 Plant health certificates

In section 12 of the **Plant Biosecurity Act 2010**—

- (a) for "section 8(1C)(a)" **substitute** "section 8(1C)(b)(i)";
- (b) in paragraph (d), for "Secretary." **substitute** "Secretary, if issued by an inspector or inspection agent."

150 Plant health declarations

In section 13 of the **Plant Biosecurity Act 2010**—

- (a) for "section 8(1C)(a)" **substitute** "section 8(1C)(b)(i)";
- (b) in paragraph (d), for "Secretary." **substitute** "Secretary, if issued by a person authorised under section 47A."

151 No offence by reason only of transporting from a prescribed State or Territory

At the end of section 14 of the **Plant Biosecurity Act 2010 insert**—

- "(2) A person does not commit an offence against section 10 by reason only of transporting into Victoria on behalf of another person any plant or plant product from a prescribed State or Territory."

152 Notification of plant pests or diseases

In section 17(4) of the **Plant Biosecurity Act 2010**, for "Governor" **substitute** "Governor in Council".

153 Prohibition on sale of diseased plants etc.

- (1) For the penalty at the foot of section 18 of the **Plant Biosecurity Act 2010 substitute—**

"Penalty: In the case of a natural person,
60 penalty units;

In the case of a body corporate,
300 penalty units."

- (2) At the end of section 18 of the **Plant Biosecurity Act 2010 insert—**

"(2) A person must not sell any plant or plant product, other than seeds, that is affected by any disease or pest.

Penalty: In the case of a natural person,
10 penalty units;

In the case of a body corporate,
60 penalty units."

154 Border security

In section 36(1) of the **Plant Biosecurity Act 2010**, for "but outside Victoria" **substitute** "(whether or not it exists in Victoria)".

155 Compliance agreements and accreditation

In the heading to Part 5 of the **Plant Biosecurity Act 2010**, after "agreements" **insert** ", authorisation".

156 New section 47A inserted

After section 47 of the **Plant Biosecurity Act 2010 insert—**

"47A Authorisation of persons to issue plant health declarations

For the purposes of this Act, the Secretary may authorise persons to issue plant health declarations in respect of any plant, plant

product, plant vector, used equipment, used package, earth material or beehive that is grown, produced, packed, treated or tested in Victoria."

157 Accreditation

In section 48(1) of the **Plant Biosecurity Act 2010**—

- (a) after "plant product," **insert** "plant vector,";
- (b) for "used package or earth material" **substitute** "used package, earth material or beehive".

158 Register

For section 49(3) of the **Plant Biosecurity Act 2010** **substitute**—

- "(3) A person must not access the register unless the person is authorised in writing by the Secretary to do so."

159 Inspector must give notice of detention or seizure

In section 97 of the **Plant Biosecurity Act 2010**—

- (a) for paragraph (a) **substitute**—
 - "(a) give notice of the detention or seizure, including a statement of reasons for the detention or seizure, to—
 - (i) the owner or consignor, if the name and a Victorian address of the owner or consignor appears on any package enclosing the plant or plant product, or on a label attached to the package; or
 - (ii) the person from whom the plant or plant product was seized or detained, in any other case; and";

(b) for paragraph (b) **substitute**—

"(b) in the case of detention or seizure under section 96(c), take or send the plant or plant product, or a sample of the plant or plant product, including any pest or a sample of any pest affecting the plant or plant product, to a laboratory or place approved by the Secretary for examination."

160 New section 133A inserted

After section 133 of the **Plant Biosecurity Act 2010 insert**—

"133A Offences about authorisation

- (1) A person who is not authorised under section 47A must not—
- (a) issue a plant health declaration; or
 - (b) use, for the purposes of this Act, anything that purports to be a plant health declaration.

Penalty: In the case of a natural person,
60 penalty units;
In the case of a body corporate,
300 penalty units.

- (2) Subsection (1) does not apply to a person authorised under a corresponding law to issue a plant health declaration or equivalent."

161 Section 134 substituted

For section 134 of the **Plant Biosecurity Act 2010** substitute—

"134 False statements in certificates and declarations

- (1) A person must not include a statement or information that the person knows to be false in any assurance certificate, plant health certificate, plant health declaration or document that purports to be an assurance certificate, plant health certificate or plant health declaration.

Penalty: In the case of a natural person,
60 penalty units;
In the case of a body corporate,
300 penalty units.

- (2) A person must not include a false statement or false information in any assurance certificate, plant health certificate, plant health declaration or document that purports to be an assurance certificate, plant health certificate or plant health declaration.

Penalty: In the case of a natural person,
10 penalty units;
In the case of a body corporate,
60 penalty units."

162 Alterations to certificates and declarations

In section 135(1)(b) of the **Plant Biosecurity Act 2010**, for "make" substitute "issue".

163 Power to approve forms

For section 140(2) of the **Plant Biosecurity Act 2010 substitute**—

"(2) The Secretary must ensure forms approved under subsection (1) are made available in any manner required to support the administration of this Act."

164 Regulations

For section 141(1)(c) of the **Plant Biosecurity Act 2010 substitute**—

- "(c) authorising and requiring inspectors to impose fees and charges of such amounts or rates as the Minister may determine for—
- (i) inspecting plants, plant products, plant vectors, used packages, used equipment, beehives or land; or
 - (ii) supervising the treatment of any plant, plant product, plant vector, used package, used equipment, earth material or beehive; or
 - (iii) supervising the destruction or disposal of any plant, plant product, plant vector, plant refuse, used package, used equipment, earth material or beehive; or
 - (iv) the preparation of a compliance agreement and ensuring that the agreement is complied with;"

Part 9—Amendment of Rural Assistance Schemes Act 2016

165 Definitions

In section 3 of the **Rural Assistance Schemes Act 2016**, in the definition of *Secretary*, for "Economic Development, Jobs, Transport and Resources" **substitute** "Jobs, Precincts and Regions".

166 Delegation by the Rural Assistance Commissioner

- (1) In section 11(1) of the **Rural Assistance Schemes Act 2016**, for "Economic Development, Jobs, Transport and Resources" **substitute** "Jobs, Precincts and Regions".
- (2) In section 11(2) of the **Rural Assistance Schemes Act 2016**, for "Economic Development, Jobs, Transport and Resources" **substitute** "Jobs, Precincts and Regions".
- (3) For section 11(2)(b) of the **Rural Assistance Schemes Act 2016 substitute**—
 - "(b) the Minister administering the other Department or, if more than one Minister is responsible for that Department or for different parts of that Department, the Minister responsible for the relevant part of the other Department having regard to the power, duty or function that is proposed to be delegated; and".

167 Conditions of office, resignation, removal from office if Member not public service employee

- (1) In section 13(2)(a) of the **Rural Assistance Schemes Act 2016 omit** "on a full-time basis and".

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- (2) In section 13(2)(b) of the **Rural Assistance Schemes Act 2016**, for "re-appointment" **substitute** "reappointment".

Part 10—Amendment of Veterinary Practice Act 1997

168 Definitions

- (1) In section 3 of the **Veterinary Practice Act 1997** insert the following definition—

"approved person means a person approved under section 3C;".

- (2) In section 3 of the **Veterinary Practice Act 1997**—

(a) in paragraph (h) of the definition of *unprofessional conduct*, after "this Act" insert "unless, in the case of a veterinary practitioner whose registration is subject to the condition of being supervised, the supervisor is changed or unable to continue supervising the veterinary practitioner";

(b) at the foot of the definition of *unprofessional conduct* insert—

"Note

See section 7AA for the cancellation of the specific registration of a veterinary practitioner if there is a condition, limitation or restriction imposed on the registration and this condition cannot be complied with."

- (3) In section 3 of the **Veterinary Practice Act 1997**, in the definition of *registered veterinary practitioner*, after paragraph (a) insert—

"(ab) a person whose name has been restored to the register under section 13; or".

- (4) In section 3 of the **Veterinary Practice Act 1997**, in the definition of *Secretary*, for "Environment and Primary Industries" substitute "Jobs, Precincts and Regions".

169 New section 3C inserted

After section 3B of the **Veterinary Practice Act 1997** insert—

"3C Governor in Council may approve an approved person

- (1) The Governor in Council may by instrument, on the recommendation of the Minister, approve a person who is not a member of the Board as an approved person for the purposes of sections 21(3)(c), 35(2) and 42(2).
- (2) The term of approval for an approved person must be specified in the instrument of approval and must not exceed 3 years."

170 Specific registration

- (1) After section 7(1)(b) of the **Veterinary Practice Act 1997** insert—

"(ba) to enable an applicant to occupy a position in a public sector body or in a department or agency of the Commonwealth Government if the position requires the applicant to be a veterinary practitioner; or"

- (2) In section 7(2) of the **Veterinary Practice Act 1997**, for "must not exceed 12 months" **substitute** "must be no less than 12 months and no more than 36 months ".

171 New section 7AA inserted

After section 7 of the **Veterinary Practice Act 1997** insert—

"7AA Cancellation of specific registration if practitioner unable to comply with condition

- (1) If a registered veterinary practitioner granted specific registration notifies the Board, or the Board becomes aware, that the practitioner cannot comply with a condition imposed on the registration, the Board must give a written notice to the practitioner in accordance with subsection (2).
- (2) For the purposes of subsection (1) the notice must—
 - (a) require that the registered veterinary practitioner show sufficient cause as to why the specific registration should not be cancelled because of non-compliance with the condition; and
 - (b) inform the registered veterinary practitioner that the practitioner must show sufficient cause within the period of 10 business days after being given the notice.
- (3) If a registered veterinary practitioner who has been given a notice in accordance with this section fails to show sufficient cause to the Board as to why the specific registration should not be cancelled within the period stated in the notice, the Board may cancel the specific registration.
- (4) If the Board cancels a specific registration under subsection (3) the Board must give a written notice to the veterinary practitioner who had held that registration stating—

- (a) that the specific registration has been cancelled by the Board; and
 - (b) that the specific registration will be removed from the Register; and
 - (c) the date on which the cancellation of the specific registration comes into effect, which must be no earlier than the date on which the practitioner receives the notice; and
 - (d) that the veterinary practitioner may apply under Part 4 to the Victorian Civil and Administrative Tribunal for a review of the decision to cancel the specific registration.
- (5) In this section—
- condition imposed on a specific registration* includes a limitation or restriction imposed on that specific registration."

172 Duration and renewal of registration

- (1) In section 11(1) of the **Veterinary Practice Act 1997**, after "or renewed" **insert** ", unless the registration is earlier cancelled or surrendered under this Act".
- (2) In section 11(2) of the **Veterinary Practice Act 1997**, after "in force" (where first occurring) **insert** ", unless the endorsement is earlier cancelled or surrendered under this Act".

173 Application for renewal of and refusal to renew registration

In section 12(3) of the **Veterinary Practice Act 1997**, after "the register" **insert** "in accordance with section 16A".

174 New section 14A inserted

After section 14 of the **Veterinary Practice Act 1997 insert—**

"14A Registration may be surrendered

A registered veterinary practitioner may surrender the practitioner's registration or an endorsement on a general registration."

175 New section 16A inserted

After section 16 of the **Veterinary Practice Act 1997 insert—**

"16A Board may remove particulars of persons no longer registered or holding a specialist endorsement

- (1) The Board may remove from the register the name and particulars of a person whose registration as a veterinary practitioner has expired or has been cancelled or surrendered under this Act as soon as practicable after the expiry, cancellation or surrender of the registration.
- (2) The Board may remove from the register the particulars of an endorsement on a general registration that has been cancelled or surrendered under this Act as soon as practicable after the cancellation or surrender of the endorsement."

176 Certificates

For section 17(3) of the **Veterinary Practice Act 1997 substitute—**

- "(3) If a veterinary practitioner's registration or endorsement of registration under this Part has been suspended or cancelled, that veterinary practitioner must return the

certificate of registration or the certificate of endorsement (as applicable) to the Board.

Penalty: 20 penalty units."

177 When complaints about professional conduct are to be investigated by the Board

For section 21(3)(c) of the **Veterinary Practice Act 1997** substitute—

"(c) a subcommittee of the Board consisting of a member of the Board and one or two other persons, each of whom must be either a member of the Board or an approved person, who are all named in the delegation—".

178 Suspension of, or imposition of conditions on, registration on decision to conduct investigation or hearing into conduct of practitioner

(1) **Insert** the following heading to section 24 of the **Veterinary Practice Act 1997**—

"Suspension of, or imposition of conditions on, registration on decision to conduct investigation or hearing into conduct of veterinary practitioner".

(2) For section 24(1) of the **Veterinary Practice Act 1997** substitute—

"(1) This section applies if the Board has made a determination—

- (a) to conduct a preliminary investigation into a complaint made to the Board about the professional conduct of a registered veterinary practitioner; or
- (b) to conduct a formal or informal hearing into the professional conduct of a registered veterinary practitioner without a preliminary investigation.

(1A) The Board may—

- (a) enter into a written agreement with the registered veterinary practitioner to impose a condition, limitation or restriction on the practitioner's registration until any investigation and any hearing into the matter is completed if the Board is of the opinion that to do so would not pose a serious risk to the health and safety of the public or endanger the health and welfare of animals; or
 - (b) suspend the registration of the registered veterinary practitioner until any investigation and any hearing into the matter is completed if the Board is of the opinion that it is necessary to do so because there is a serious risk that the health and safety of the public or the health and welfare of animals will be endangered."
- (3) In section 24(2) of the **Veterinary Practice Act 1997**, for "subsection (1)" **substitute** "subsection (1A)(b)".
- (4) In section 24(3) of the **Veterinary Practice Act 1997**—
- (a) after "The Board" **insert** ", before any investigation or hearing into the matter is completed,";
 - (b) for "subsection (1)" **substitute** "subsection (1A)(b)".

(5) After section 24(3) of the **Veterinary Practice Act 1997** insert—

"(3A) The Board may, before any investigation or hearing into the matter is completed—

- (a) with the agreement of the registered veterinary practitioner, vary any condition, limitation or restriction imposed on the registration of the practitioner under subsection (1A)(a); or
- (b) revoke any condition, limitation or restriction imposed on the registration of the practitioner under subsection (1A)(a).

(3B) If, at a formal hearing, the Board determines to impose a condition, limitation or restriction on the registration of a veterinary practitioner under section 45(2)(f), any condition, limitation or restriction imposed on the registration of the practitioner under subsection (1A)(a) is revoked on the day of the determination."

(6) For section 24(4) of the **Veterinary Practice Act 1997** substitute—

"(4) If the suspension of a veterinary practitioner's registration under subsection (1A)(b) or a condition, restriction or limitation imposed under subsection (1A)(a) is revoked under this section, the Board must immediately serve a written notice personally or by registered post on the veterinary practitioner informing the practitioner of that revocation and the date of that revocation."

179 Suspension of, or imposition of conditions on, registration if preliminary investigation to be conducted on health etc. of practitioner

- (1) For the heading to section 26A of the **Veterinary Practice Act 1997** substitute—

"Suspension of, or imposition of conditions on, registration if preliminary investigation to be conducted on health etc. of practitioner".

- (2) For section 26A(1) of the **Veterinary Practice Act 1997** substitute—

"(1) This section applies if the Board has appointed a person to conduct a preliminary investigation under section 25 into the matter of whether the ability of a registered veterinary practitioner to practise veterinary medicine or surgery may be affected.

- (1A) The Board may—

- (a) enter into a written agreement with the registered veterinary practitioner to impose a condition, limitation or restriction on the practitioner's registration until the preliminary investigation and any hearing into the matter is completed if the Board reasonably believes that to do so would not pose an unacceptable risk that the health and safety of the public or the health and welfare of animals will be endangered; or
- (b) suspend the registration of the registered veterinary practitioner concerned."

- (3) In section 26A(2) of the **Veterinary Practice Act 1997**, for "subsection (1)" substitute "subsection (1A)(b)".

(4) After section 26A(7) of the **Veterinary Practice Act 1997** insert—

"(7A) The Board may, before the preliminary investigation or any hearing into the matter is completed—

(a) with the agreement of the veterinary practitioner, vary any condition, limitation or restriction imposed on the registration of the veterinary practitioner under subsection (1A)(a);
or

(b) revoke any condition, limitation or restriction imposed on the registration of the veterinary practitioner under subsection (1A)(a).

(7B) If the veterinary practitioner enters into an agreement with the Board under section 29 or 31, any condition, limitation or restriction imposed on the registration of the practitioner under subsection (1A)(a) is revoked on the day on which the agreement is made.

(7C) If, at a formal hearing, the Board determines to impose a condition, limitation or restriction on the registration of a veterinary practitioner under section 46(2)(a), any condition, limitation or restriction imposed on the registration of the practitioner under subsection (1A)(a) is revoked on the day of the determination."

(5) For section 26A(10) of the **Veterinary Practice Act 1997** substitute—

"(10) If under this section the suspension of a veterinary practitioner's registration ceases or a condition, limitation or restriction imposed on the registration of a veterinary

practitioner under subsection (1A)(a) is revoked, the Board must immediately serve a written notice personally or by registered post on the veterinary practitioner informing the veterinary practitioner—

- (a) in the case of the cessation of a suspension, that the suspension has ceased and the date on which it ceased; or
- (b) in the case of the revocation of a condition, limitation or restriction, that the condition, limitation or restriction has been revoked and the date of the revocation."

180 Constitution of a panel for an informal hearing

(1) For section 35(2) of the **Veterinary Practice Act 1997** substitute—

"(2) The President or (if the President is unable to act) the Deputy President of the Board may appoint an approved person to be a member of a panel in any or all of the following circumstances—

- (a) the Board is unable to appoint a panel because there are not enough members available to sit on it;
- (b) the Board is of the opinion that a person with special expertise is required for the hearing;
- (c) the Board considers that in the circumstances it is desirable that a lawyer should sit on the panel."

(2) Section 35(4) of the **Veterinary Practice Act 1997** is **repealed**.

181 Constitution of a hearing panel for a formal hearing

For section 42(2) of the **Veterinary Practice Act 1997** substitute—

- "(2) The President or (if the President is unable to act) the Deputy President of the Board may appoint an approved person to be a member of a panel in any or all of the following circumstances—
- (a) the Board is unable to appoint a panel because there are not enough members available to sit on it;
 - (b) the Board is of the opinion that a person with special expertise is required for the hearing;
 - (c) the Board considers that in the circumstances it is desirable that a lawyer should sit on the panel."

182 Constitution of a hearing panel for a formal hearing

Section 42(4) of the **Veterinary Practice Act 1997** is **repealed**.

183 New section 47A inserted

After section 47 of the **Veterinary Practice Act 1997** insert—

"47A Conferences, meetings or hearings may be held by remote means.

- (1) For the purposes of this Part a preliminary conference, meeting, informal hearing or formal hearing may be held by means of an audio link or an audio visual link if—
 - (a) holding the conference, meeting or hearing by those means is the only way to comply with any requirements imposed by law; or

Example

A requirement imposed by a law could be that there may be no gatherings of people during a pandemic other than for reasons that do not include the holding of conferences, meetings or hearings.

- (b) the person who is required to attend the conference or meeting or entitled to be present at the hearing agrees that the conference, meeting or hearing may be held by either of those means.
- (2) For the purposes of subsection (1)(b), an agreement may be made by any means of electronic communication."

184 Section 53 substituted

For section 53 of the **Veterinary Practice Act 1997 substitute—**

"53 Offences to disclose information identifying complainant or witness

- (1) A person must not publish or broadcast or cause to be published or broadcast any report of a formal hearing under this Part which contains information which would enable the complainant to be identified unless the complainant has, before the publication or broadcast, consented to this.

Penalty: For a natural person, 60 penalty units.

For a body corporate, 300 penalty units.

- (2) A person must not publish or broadcast or cause to be published or broadcast any report of a formal hearing under this Part which contains information which would enable, if the panel has made a determination prohibiting the publication or broadcast of

the identity of a witness, that witness to be identified unless the witness has, before the publication or broadcast, consented to this.

Penalty: For a natural person, 60 penalty units.

For a body corporate, 300 penalty units."

185 Review by Victorian Civil and Administrative Tribunal

(1) In section 55(1)(a) of the **Veterinary Practice Act 1997**, for "a person's" substitute "the person's".

(2) For section 55(1)(b) of the **Veterinary Practice Act 1997** substitute—

"(b) a decision of the Board to impose, vary or revoke a condition, limitation or restriction on the person's registration as a veterinary practitioner; or

(ba) a decision of the Board to refuse to impose, vary or revoke a condition, limitation or restriction on the person's registration as a veterinary practitioner; or".

(3) In section 55(1)(c) of the **Veterinary Practice Act 1997**, for "a person" substitute "the person".

(4) After section 55(1)(c) of the **Veterinary Practice Act 1997** insert—

"(ca) a decision of the Board under section 7AA to cancel the specific registration of the person; or".

(5) In section 55(1)(d) of the **Veterinary Practice Act 1997**, after "Part 3" insert "in relation to the person".

186 Claims by persons as to registration

(1) For section 57(1) of the *Veterinary Practice Act 1997* substitute—

"(1) A person who is not a registered veterinary practitioner must not take or use the title of registered veterinary practitioner or any other title that suggests that the person is registered under this Act.

Penalty: 100 penalty units.

(1A) A person who is not a registered veterinary practitioner must not claim to be registered under this Act or hold out that the person is registered under this Act.

Penalty: 100 penalty units.

(1B) A person who is not a registered veterinary practitioner must not claim to be qualified to practise as a veterinary practitioner.

Penalty: 100 penalty units.

(1C) A person who is not a registered veterinary practitioner must not carry out any act that is required to be carried out by a registered veterinary practitioner by or under an Act.

Penalty: 100 penalty units."

(2) For section 57(2) of the *Veterinary Practice Act 1997* substitute—

"(2) A registered veterinary practitioner whose registration is specific must not take or use any title that suggests that the veterinary practitioner's registration is not specific.

Penalty: 100 penalty units.

(2A) A registered veterinary practitioner whose registration is specific must not claim to have, or hold the veterinary practitioner out, as having general registration.

Penalty: 100 penalty units."

(3) For section 57(3) of the **Veterinary Practice Act 1997 substitute**—

"(3) A registered veterinary practitioner whose registration is subject to a condition, limitation or restriction must not take or use any title that suggests that the veterinary practitioner's registration is not subject to a condition, limitation or restriction.

Penalty: 100 penalty units.

(3A) A registered veterinary practitioner whose registration is subject to a condition, limitation or restriction must not claim to have, or hold the veterinary practitioner out, as having a registration which is not subject to a condition, limitation or restriction.

Penalty: 100 penalty units."

(4) For section 57(4) of the **Veterinary Practice Act 1997 substitute**—

"(4) A person must not take or use the title of registered veterinary specialist or any other title that suggests that the person is registered under this Act with an endorsement that the person is a veterinary specialist, unless the person is a registered veterinary practitioner whose registration is endorsed that the person is a veterinary specialist.

Penalty: 100 penalty units.

(4A) A person must not claim to be registered under this Act with an endorsement that the person is a veterinary specialist or hold out

that the person is registered under this Act with an endorsement that the person is a veterinary specialist, unless the person is a registered veterinary practitioner whose registration is endorsed that the person is a veterinary specialist.

Penalty: 100 penalty units.

- (4B) A person must not claim to be qualified to practise as a veterinary specialist unless the person is a registered veterinary practitioner whose registration is endorsed that the person is a veterinary specialist.

Penalty: 100 penalty units."

- (5) For section 57(5) of the **Veterinary Practice Act 1997 substitute**—

"(5) A person must not take or use the title of registered veterinary specialist with respect to a particular branch of veterinary surgery or veterinary medicine or any other title that suggests that the person is registered under this Act with an endorsement that the person is a veterinary specialist with respect to that branch, unless the person is a registered veterinary practitioner whose registration is endorsed that the person is a veterinary specialist with respect to that branch.

Penalty: 100 penalty units.

- (5A) A person must not claim to be registered under this Act with an endorsement that the person is a veterinary specialist with respect to a particular branch of veterinary surgery or veterinary medicine or hold the person out as being registered under this Act with an endorsement that the person is a veterinary specialist with respect to that branch, unless the person is a registered veterinary

practitioner whose registration is endorsed that the person is a veterinary specialist with respect to that branch.

Penalty: 100 penalty units.

- (5B) A person must not claim to be qualified to practise as a veterinary specialist with respect to a particular branch of veterinary surgery or veterinary medicine, unless the person is a registered veterinary practitioner whose registration is endorsed that the person is a veterinary specialist with respect to that branch.

Penalty: 100 penalty units."

- (6) For the penalty at the foot of section 57(6) of the **Veterinary Practice Act 1997 substitute**—

"Penalty: For a natural person, 100 penalty units.

For a body corporate, 300 penalty units."

187 Section 58 substituted

For section 58 of the **Veterinary Practice Act 1997 substitute**—

"58 Fraud, forgery etc

- (1) A person must not fraudulently or by false representation or declaration (either orally or in writing) obtain registration under this Act.

Penalty: 100 penalty units.

- (2) A person must not fraudulently or by false representation (either orally or in writing) procure any person to be registered under this Act.

Penalty: For a natural person, 100 penalty units.

For a body corporate, 500 penalty units.

- (3) A person must not forge, counterfeit or alter any certificate of registration under this Act or any degree, diploma or other evidence of qualifications for registration under this Act.

Penalty: For a natural person, 100 penalty units.

For a body corporate, 500 penalty units."

188 Membership of the Board

For section 63(2)(c) of the **Veterinary Practice Act 1997 substitute—**

- "(c) one must be a registered veterinary practitioner with experience in veterinary education or the continuing professional development of veterinary practitioners; and"

190 Approved methods of communication for Board

- (1) In section 72(1) of the **Veterinary Practice Act 1997**, after "President of the Board" **insert** "or Deputy President of the Board".

- (2) After section 72(1) of the **Veterinary Practice Act 1997 insert—**

"(1A) For the purposes of subsection (1), members of the Board may come to an agreement by any means of electronic communication."

- (3) In section 72(2) of the **Veterinary Practice Act 1997**, for "he or she" **substitute** "the member".

(4) For section 72(3) of the **Veterinary Practice Act 1997 substitute**—

"(3) This section applies to a meeting or part of a meeting of the Board conducted for the purposes of the Board performing its functions under this Act."

191 Section 77 substituted

For section 77 of the **Veterinary Practice Act 1997 substitute**—

"77 Duty of confidentiality

- (1) A person who is or has been a member of the Board or a member of the staff of the Board, must not, directly or indirectly, make a record of, or disclose or communicate to another person, any information obtained in the course of the performance of the person's functions under this Act unless—
- (a) for a purpose or in a circumstance specified in subsection (2); and
 - (b) in the case of a disclosure or communication of information to a relevant person, the person disclosing or communicating the information is satisfied that—
 - (i) the information will be collected, stored and used by the relevant person in a way that ensures the protection of the privacy of any person to whom the information relates; and
 - (ii) the provision of the information to the relevant person is necessary to enable the relevant person to perform their functions.

Penalty: 60 penalty units.

- (2) For the purposes of subsection (1) the purposes or circumstances are as follows—
- (a) for the purposes of, or in connection with, the administration and enforcement of this Act or the regulations or a law of another State or Territory that corresponds with this Act or the regulations;
 - (b) for the purposes of assisting any of the following persons to perform a function under this Act or any other Act or to assist those persons in the performance of such functions—
 - (i) a member of, or officer employed by, the Board;
 - (ii) a person authorised by the Board for the purposes of this Act;
 - (iii) a relevant person;
 - (c) the information relates to a proceeding before the Victorian Civil and Administrative Tribunal that is open to the public;
 - (d) the information is reasonably required for the purposes of the enforcement of any other Act, or a law of another State or a Territory;
 - (e) for the purposes of reducing risks to the health, safety and wellbeing of a natural person to whom the information relates;
 - (f) for the purposes of reducing risks to the health, safety and wellbeing of members of the public or the health or welfare of animals;

- (g) the information is in a form that does not identify a natural person to whom the information relates;
 - (h) the disclosure is authorised in writing by the person to whom the information relates;
 - (i) the disclosure is authorised in writing by the Board on the grounds that the disclosure is in the public interest.
- (3) In this section—

relevant person means any of the following persons—

- (a) the Director of Public Prosecutions;
- (b) a police officer;
- (c) a person appointed by the Board under Part 3 or Part 8;
- (d) a registered medical practitioner performing a function under Part 3;
- (e) a barrister or solicitor engaged to assist the Board in relation to a formal or informal hearing or a prosecution for an offence against a provision of this Act;
- (f) a specialist inspector or a general inspector appointed under the **Prevention of Cruelty to Animals Act 1986**;
- (g) an authorised officer within the meaning of the **Domestic Animals Act 1994**;

- (h) an inspector within the meaning of the **Livestock Disease Control Act 1994**;
- (i) an authorised officer within the meaning of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992**;
- (j) an authorised officer within the meaning of the **Wildlife Act 1975**;
- (k) an authorized officer within the meaning of the **Drugs, Poisons and Controlled Substances Act 1981**;
- (l) a gambling and liquor inspector within the meaning of the **Racing Act 1958**;
- (m) the Secretary;
- (n) any person employed under Part 3 of the **Public Administration Act 2004** in the administration of the **Racing Act 1958**;
- (o) a person who performs, or assists a person to perform, functions similar to or equivalent to those performed by a person referred to in paragraphs (a) to (d) and (f) to (n) under a law of another State or a Territory;
- (p) any other person, or a person of a class of person, prescribed for the purposes of this section."

192 Powers of Board in relation to fees

- (1) In section 86(1)(a) of the **Veterinary Practice Act 1997**, for "the Board" **substitute** "subject to paragraph (ab), the Board".
- (2) After section 86(1)(a) of the **Veterinary Practice Act 1997 insert**—
 - "(ab) in the case of a fee determined by the Board for granting specific registration as a veterinary practitioner, the Board must fix the fee for a period that is no less than 12 months and no more than 36 months and may amend or vary the fee at the end of that period; and".

193 New section 98 inserted

After section 97 of the **Veterinary Practice Act 1997 insert**—

"98 Transitional provisions—Agriculture Legislation Amendment Act 2022

- (1) A person approved by the Governor in Council under section 35(4) immediately before the commencement of section 180(2) of the amending Act is taken to be an approved person until the term of the approval expires.
- (2) A person approved by the Governor in Council under section 42(4) immediately before the commencement of section 182 of the amending Act is taken to be an approved person until the term of the approval expires.
- (3) The amendments made to this Act by section 184 of the amending Act apply only to offences alleged to have been committed on or after the commencement of that section.

- (4) For the purposes of subsection (3), if an offence is alleged to have been committed between 2 dates, one before and one on or after the commencement of section 184 of the amending Act, the offence is alleged to have been committed before that commencement.
- (5) The amendments made to this Act by section 186 of the amending Act apply only to offences alleged to have been committed on or after the commencement of that section.
- (6) For the purposes of subsection (5), if an offence is alleged to have been committed between 2 dates, one before and one on or after the commencement of section 186 of the amending Act, the offence is alleged to have been committed before that commencement.
- (7) The amendments made to this Act by section 187 of the amending Act apply only to offences alleged to have been committed on or after the commencement of that section.
- (8) For the purposes of subsection (7), if an offence is alleged to have been committed between 2 dates, one before and one on or after the commencement of section 187 of the amending Act, the offence is alleged to have been committed before that commencement.
- (9) The Board continues in operation despite the changes to its constitution made by section 188 of the Amending Act.

Agriculture Legislation Amendment Act 2022
No. 22 of 2022

Part 10—Amendment of Veterinary Practice Act 1997

(10) In this section—

amending Act means the **Agriculture
Legislation Amendment Act 2022**."

Part 11—Amendment of Wildlife Act 1975

194 Offence for certain persons to enter on or remain in specified hunting area

In section 58C(1A)(a)(i) of the **Wildlife Act 1975**, for "game birds" **substitute** "game that is waterfowl".

195 Statute law revision amendment

In section 18(7) of the **Wildlife Act 1975**, in the definition of *Marine and Coastal Strategy*, for "**2018;**" **substitute** "**2018.**".

Part 12—Amendment of Meat Industry Act 1993

196 Definitions

- (1) In section 3(1) of the **Meat Industry Act 1993**—
- (a) **insert** the following definitions—
- field depot* means a game processing facility used in the wild to store game meat temporarily under refrigeration before its transport to another game processing facility;
- game meat* means meat that comes from game;
- harvest vehicle* means a game processing facility used in the wild to transport game meat to another game processing facility;
- poultry meat* means meat that comes from poultry;"
- (b) in the definition of *chief veterinary officer*, for "Environment and Primary Industries" **substitute** "Jobs, Precincts and Regions";
- (c) for the definition of *farm substitute*—
- farm* means land that is used for the primary production of animals;"
- (d) in the definition of *Secretary*, for "Environment and Primary Industries" **substitute** "Jobs, Precincts and Regions".
- (2) Section 3(1A) of the **Meat Industry Act 1993** is **repealed**.

197 Act not to apply in certain cases

(1) In section 5(1) of the **Meat Industry Act 1993**—

- (a) paragraph (a)(iv) is **repealed**;
- (b) in paragraph (b)(iv), for "and" **substitute** "or";
- (c) in paragraph (c), for "being." **substitute** "being; or";
- (d) after paragraph (c) **insert**—
 - "(d) the sale of meat from a consumable animal if—
 - (i) the sale is either—
 - (A) a retail sale; or
 - (B) a sale by wholesale by a person or body, being a person or body engaged in retail sale of that type of meat, to another person or body for the purpose of retail sale by that other person or body; and
 - (ii) the meat has been processed, packaged for retail sale in Australia and labelled at one or more—
 - (A) licensed meat processing facilities; or
 - (B) places licensed or authorised for that purpose in accordance with the laws of another State or a Territory; and

- (iii) the meat is contained inside impermeable and hermetically sealed packaging; and
- (iv) the meat—
 - (A) in the case of a retail sale, has not been repackaged; or
 - (B) in the case of a sale by wholesale, is not intended to be repackaged before retail sale; or
- (e) the handling, storage or transport of meat from a consumable animal if—
 - (i) the handling, storage or transport is incidental to—
 - (A) retail sale of the meat; or
 - (B) wholesale of the meat by a person or body, being a person or body engaged in retail sale of that type of meat, to another person or body for the purpose of retail sale by that other person or body; and
 - (ii) the meat has been processed, packaged for retail sale in Australia and labelled at one or more—
 - (A) licensed meat processing facilities; or
 - (B) places licensed or authorised for that purpose in accordance with the laws of another State or a Territory; and

- (iii) the meat is contained inside impermeable and hermetically sealed packaging; and
- (iv) the meat has not been, and is not intended to be, repackaged before retail sale."

(2) In section 5(2) of the **Meat Industry Act 1993**, after "this Act" (wherever occurring) **insert** "or the regulations".

198 Testing for chemicals and disease

In section 30(6) of the **Meat Industry Act 1993**, for "Environment and Primary Industries" **substitute** "Jobs, Precincts and Regions".

199 Section 34 substituted

For section 34 of the **Meat Industry Act 1993** **substitute**—

"34 Ban on sale of certain meat for human consumption

- (1) A person must not sell or dispose of meat (other than poultry meat, game meat or meat to which an exemption Order under section 35 applies) for human consumption unless—
 - (a) the meat is from—
 - (i) a consumable animal (other than a consumable animal prescribed for the purposes of section 35(7)) slaughtered at a meat processing facility licensed for that purpose; or
 - (ii) a consumable animal slaughtered at a place licensed or authorised for that purpose in accordance with the laws of another State or a Territory; and

- (b) the meat has been processed at—
 - (i) a meat processing facility licensed for that purpose; or
 - (ii) a place licensed or authorised for that purpose in accordance with the laws of another State or a Territory; and
- (c) the meat has been—
 - (i) inspected and branded in accordance with this Act and the regulations; or
 - (ii) certified as fit for human consumption in accordance with the laws of another State or a Territory.

Penalty: First offence 100 penalty units.
Subsequent offence 500 penalty units or imprisonment for 24 months or both.

- (2) A person must not sell or dispose of poultry meat for human consumption unless—
 - (a) the poultry has been slaughtered at—
 - (i) a meat processing facility licensed for that purpose; or
 - (ii) a place licensed or authorised for that purpose in accordance with the laws of another State or a Territory; and
 - (b) the meat has been processed at—
 - (i) a meat processing facility licensed for that purpose; or

(ii) a place licensed or authorised for that purpose in accordance with the laws of another State or a Territory; and

(c) if brought into Victoria after slaughter or processing, the meat has been certified as fit for human consumption in accordance with the laws of another State or a Territory.

Penalty: First offence 100 penalty units.

Subsequent offence 500 penalty units or imprisonment for 24 months or both.

(3) A person must not sell game meat for human consumption unless—

(a) the meat has been processed at—

(i) a meat processing facility licensed for that purpose; or

(ii) a place licensed or authorised for that purpose in accordance with the laws of another State or a Territory; and

(b) if brought into Victoria after processing, the meat has been certified as fit for human consumption in accordance with the laws of another State or a Territory.

Penalty: First offence 100 penalty units.

Subsequent offence 500 penalty units or imprisonment for 24 months or both.

- (4) A person must not dispose of game meat for human consumption unless—
- (a) the meat has been processed at—
 - (i) a meat processing facility licensed for that purpose; or
 - (ii) a meat processing facility that solely processes game not intended for sale; or
 - (iii) a place licensed or authorised for that purpose in accordance with the laws of another State or a Territory; and
 - (b) if brought into Victoria after processing (other than from a place that solely processes game not intended for sale), the meat has been certified as fit for human consumption in accordance with the laws of another State or a Territory.

Penalty: First offence 100 penalty units.
Subsequent offence 500 penalty units or imprisonment for 24 months or both."

200 Ban on sale or slaughter

- (1) In the penalty at the foot of section 35(6) of the **Meat Industry Act 1993**, for "Second or subsequent" **substitute** "Subsequent".
- (2) In section 35(7) of the **Meat Industry Act 1993** **omit** "meat from".

201 Ban on sale of certain meat at butcher shops

In section 37A(3)(b) of the **Meat Industry Act 1993**, for "Australian Quarantine and Inspection Service of the Department of Agriculture, Fisheries and Forestry" **substitute** "Department of Agriculture, Water and the Environment".

202 New section 37B inserted

After section 37A of the **Meat Industry Act 1993** insert—

"37B Ban on sale of certain meat for consumption as pet food

- (1) A person must not, for consumption as pet food, sell or dispose of meat processed in Victoria unless—
- (a) the meat has been inspected in accordance with this Act and the regulations; and
 - (b) any procedures that the regulations require to be complied with before the meat can be sold or disposed of have been complied with.

Penalty: First offence 50 penalty units.
Subsequent offence 100 penalty units or 12 months imprisonment or both.

- (2) Subsection (1) does not apply to a person who, for consumption as pet food, disposes of game meat processed at a meat processing facility that solely processes game meat not intended for sale.
- (3) A person must not, for consumption as pet food, sell or dispose of meat that has been brought into Victoria unless the meat has

been certified as fit for consumption as pet food in accordance with the laws of another State or a Territory.

Penalty: First offence 50 penalty units.

Subsequent offence 100 penalty units or imprisonment for 12 months or both.

- (4) Subsection (3) does not apply to a person who, for consumption as pet food, disposes of game meat processed outside Victoria at a place that solely processes game meat not intended for sale."

203 Slaughter at unlicensed premises

In section 38(1)(a) of the **Meat Industry Act 1993** omit "other than game".

204 Branding

- (1) For section 39(1)(a) of the **Meat Industry Act 1993** substitute—

"(a) the meat is a carcass or comes from a carcass—

(i) branded in accordance with the regulations as fit for human consumption; or

(ii) certified as fit for human consumption in accordance with the laws of another State or a Territory; or".

- (2) After section 39(1) of the **Meat Industry Act 1993** insert—

"(1A) Subsection (1) does not apply to game meat or poultry meat.

(1B) A person must not remove game meat from a game processing facility, other than a field depot or a harvest vehicle, unless—

- (a) the meat is branded in accordance with the regulations as fit for human consumption; or
- (b) the meat is certified as fit for human consumption in accordance with the laws of another State or a Territory; or
- (c) the meat has, in accordance with the requirements of the regulations, been made unusable for human consumption.

Penalty: First offence 50 penalty units.
Subsequent offence 100 penalty units or 12 months imprisonment or both."

205 Terms and conditions of staff

Section 55(4) of the **Meat Industry Act 1993** is **repealed**.

206 Consequential amendment of Food Act 1984

- (1) In the heading to section 39C of the **Food Act 1984**, for "**34(1)**" substitute "**34**".
- (2) In section 39C of the **Food Act 1984**, for "**34(1)**" substitute "**34**".

Part 13—Repeal of this Act

207 Repeal of this Act

This Act is **repealed** on 5 April 2024.

Note

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

[†] *Minister's second reading speech—*

Legislative Assembly: 6 April 2022

Legislative Council: 12 May 2022

The long title for the Bill for this Act was "A Bill for an Act to amend the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992**, the **Catchment and Land Protection Act 1994**, the **Dairy Act 2000**, the **Drugs, Poisons and Controlled Substances Act 1981**, the **Farm Debt Mediation Act 2011**, the **Livestock Disease Control Act 1994**, the **Plant Biosecurity Act 2010**, the **Rural Assistance Schemes Act 2016**, the **Veterinary Practice Act 1997**, the **Wildlife Act 1975** and the **Meat Industry Act 1993** and for other purposes."