

# Agriculture Legislation Amendment Bill 2022

## Introduction Print

### EXPLANATORY MEMORANDUM

#### General

The Agriculture Legislation Amendment Bill 2022 makes a range of miscellaneous amendments to 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 **Meat Industry Act 1993**, the **Plant Biosecurity Act 2010**, the **Rural Assistance Schemes Act 2016**, the **Veterinary Practice Act 1997** and the **Wildlife Act 1975**.

#### Clause Notes

##### Part 1—Preliminary

- Clause 1 sets out the purposes of the Bill.
- Clause 2 is the commencement provision. It provides that the Bill comes into operation on a day or days to be proclaimed, but if a provision 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

- Clause 3 amends section 4(1) of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** to insert definitions of *inspect* and *place*. The new definitions are required to support

the operation of the new inspection and enforcement powers introduced by the Bill.

- Clause 4 amends section 49(1) of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** to enable the power to regulate the identification, transport, sale, management and handling of any stock in certain circumstances, to also apply to stock in any vessel or aircraft. The operation of the existing power is limited to stock on any premises or in any vehicle.
- Clause 5 amends section 52(3)(d) of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** to enable the power to regulate agricultural produce, fertilisers or stock food if there is a reasonable belief that it is contaminated to also apply to a person in charge of any vehicle, vessel or aircraft.
- Clause 6 substitutes the heading to Part 8 of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** with a new heading to reflect the new and expanded compliance, inspection and testing powers introduced by the Bill.
- Clause 7 inserts a new Division heading to clearly arrange the provisions of Part 8 of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** according to the subject matter. The new Division heading makes clear that section 53 provides for matters specific to authorised officers.
- Clause 8 amends section 53 of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** to clarify and modernise the functions and powers of authorised officers appointed by the Secretary. References to chief administrator are replaced with references to the Secretary by clause 30 of the Bill.
- Subclause (1) substitutes "identification" with "identity" to ensure consistent language appears throughout section 53(2) of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992**.
- Subclause (2) substitutes section 53(3) of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** with new section 53(3) and (4).
- New section 53(3) of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** modifies and limits the existing requirement that an authorised officer must produce their identity card for inspection before or at any time during the

exercise of a power under the Act. The requirement under new section 53(3) will operate in the limited circumstance that a request is made to the authorised officer and subject to exception under new section 53(4).

New section 53(4) of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** creates an exception to the requirement under new section 53(3) for an authorised officer to produce their identity card. The exception provides that an authorised officer is not required to produce their identity card in exercising a power if the request is unreasonable in the circumstances, or the power is exercised by post or electronic communication.

Clause 9 inserts a new Division heading and new section 53A, after section 53 of the of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992**. New section 53A provides for the purposes of the new and clarified powers of authorised officers.

Clause 10 substitutes existing section 54 with a new provision and inserts new sections 54A to 54AJ into the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992**. The new provisions introduce new inspection and enforcement powers that address the limitations and outdated requirements of the existing powers available under that Act.

New section 54 of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** replaces existing section 54 that sets out the scope of powers available to an authorised officer. New section 54 gives authorised officers the specific power to enter and inspect at a reasonable time anything found at any place, other than a place occupied as a residence. The new power is subject to a number of limitations. The authorised officer must only exercise the power of entry if they reasonably suspect it is necessary to inspect any of the following—

- Any fertiliser or stock food that has been or is being or may be being manufactured at the place.
- Any chemical product, fertiliser or stock food that has been, is being or may be sold, kept stored or prepared for use at the place.

- 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.
- Any aircraft at the place that has been, is being or may be used for aerial spraying.
- There is or has been or may be agricultural spraying carried out at the place.
- There is any contaminated stock or agricultural produce, or plants from which contaminated agricultural produce is likely to be derived, at the place.
- The place has been contaminated by the use of an agricultural chemical product.
- 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 the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992**, the regulations or an Order under that Act.

New section 54(2) of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** also provides an additional power for an authorised officer to support the exercising of a power under new section 54(1). The additional power enables an authorised officer to enter any place (other than a residence) if they hold a reasonable belief that it is necessary to do so in order to access a place that may be entered under new section 54(1). The additional power is also subject to the limitations that it must only be exercised at a reasonable time.

New section 54(3) of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** provides for further limitations on the power of entry and inspection contained in new section 54(1) and (2). In exercising any of those powers, an authorised officer must cause as little inconvenience as possible and not remain at the place any longer than is reasonably necessary.

New section 54A of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** makes expressly clear that an authorised officer may exercise the power to enter and inspect a place if it is, at the time of entry, open to the public.

New section 54AB of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** creates a new power for authorised officers to stop, enter and inspect vehicles, vessels and aircraft. New section 54AB(1) provides that the power to stop any vehicle, vessel or aircraft is available if the authorised officer reasonably believes or suspects that the vehicle, vessel or aircraft has been or may be used to transport or keep or store any of the following: chemical products, fertiliser, stock food, contaminated stock, agricultural produce, stock or plants from which contaminated agricultural produce is likely to be derived. The new power is also subject to the limitation that it may be exercised at any reasonable time.

New section 54AB(2) of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** creates a power for an authorised officer to enter any vehicle, vessel or aircraft if the following circumstances exist—

- the vehicle, vessel or aircraft has been stopped under new section 54AB(1); or
- the authorised officer reasonably believes or suspects that the vehicle, vessel or aircraft is or has been or may be used for the purposes outlined in new section 54AB(1)(a) or (b).

The exercise of the power of an authorised officer to stop a vehicle, vessel or aircraft under new section 54AB(1) is also supported by an additional power under new section 54AB(3). The additional power enables an authorised officer to require the driver or person in charge to present the vehicle, vessel or aircraft for entry and inspection at another reasonable time and place. The new power is available in the limited circumstance that the authorised officer considers that it is not safe or practical to enter or inspect the vehicle, vessel or aircraft when it is stopped.

New section 54AC of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** provides for the procedures and requirements that an authorised officer must satisfy when exercising a power of entry under new Division 2 of Part 8.

New section 54AC(1) provides that on exercising a power of entry under the new Division an authorised officer must immediately 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 their identity card for inspection.

New section 54AC(2) provides for the requirements that apply to an authorised officer in the event that on exercising a power of entry under the new Division an occupier, driver or person in charge is not present. The authorised officer must leave a notice setting out the following matters: the time and purpose of the entry, a description of all things done while at the place or in the vehicle or vessel or aircraft, the time of departure as well as the authorised officer's name and contact details.

New section 54AC(3) provides for limited circumstances where the requirements under new section 54AC(1) and (2) do not apply to an authorised officer exercising a power of entry. The circumstances are where the authorised officer reasonably believes that the place entered is open to the public and it would not be practicable to leave a notice at that place. If either of these circumstances exist and the following circumstances also exist, then the requirements do not apply to the authorised officer—

- compliance with the requirements would unreasonably interfere with performing a function or exercising a power; or
- advanced notice of the entry has been provided to the occupier of the place or the owner or person in charge of the vehicle, vessel or aircraft.

New section 54AD of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** provides for the requirements that apply to a person to provide assistance to an authorised officer when exercising a power or carrying out a function under new Division 2 of Part 8 of the Act.

New section 54AD(1) provides that an authorised officer who may enter or inspect or take any other action under the new Division 2 of Part 8 in relation to a place, vehicle, vessel or aircraft may request any person to provide assistance.

New section 54AD(2) expressly construes a requirement made by an interpreter assisting an authorised officer to be a requirement made by the authorised officer. Also an answer given to an interpreter assisting an authorised officer is construed to be an answer given to the authorised officer.

New section 54AE(1) of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** provides for the requirements that apply to the owner, occupier or apparent occupier of a place, or the owner or person in charge of a vehicle, vessel or aircraft, that is entered by an authorised officer. A relevant person may be required by the authorised officer to provide all reasonable assistance necessary to enable the authorised officer to perform functions or exercise powers under Part 8.

New section 54AE(2) of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** provides for requirements in addition to those set out in new section 54AE(1). A relevant person may also be required to provide adequate facilities and assistance to allow for the safe and efficient handling of animals during an inspection and the taking of samples or specimens.

New section 54AF of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** provides for the following additional powers to be available to an authorised officer at any reasonable time—

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

New section 54AG of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** also provides for additional powers that may be required when an authorised officer is exercising a power or carrying out a function under new Division 2 of Part 8. New section 54AG(1) enables an authorised officer at any reasonable time to take and remove for analysis or examination samples of or from, or specimens of any plant, animal, carcass, agricultural produce, air, soil or water or any material deposited on or in any object. An authorised officer may also use these powers in relation to any substance that the authorised officer reasonably suspects is a chemical product, fertiliser or stock food or any equipment used in connection with certain activities. If any of the powers to take a sample or specimen under new section 54AG(1)(a) are exercised by an authorised officer the requirements under new section 54AG(3) apply so that they 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. This requirement only arises if the owner or person makes a request to the authorised officer. New section 54AG(4) provides that an authorised officer is not required to comply with the request if it would be impracticable to do so.

New section 54AG(2) of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** enables an authorised officer to conduct or arrange for others to conduct any analysis or examination of a sample or specimen taken or removed under new section 54AG(1).

New section 54AH of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** enables the additional power for an authorised officer to at any reasonable time take photographs, make any audio, visual or audiovisual recordings or make any sketches or drawings.

New section 54AI of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** provides the power to an authorised officer at any reasonable time to require a person—

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

New section 54AJ of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** provides a power to authorised officers to at any reasonable time require a person to produce any document that is reasonably required and to also do any of the following things with the document—

- examine it;
- make copies of it or take extracts from it;
- remove it for as long as is reasonably necessary to make a copy or take an extract.

Clause 11 inserts a new Division heading as Division 3 of Part 8 of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992**. The heading denotes the provisions in Part 8 that provide for search warrants.

- Clause 12 makes an amendment to the heading of section 54C of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** to clarify that the requirement in that section to make an announcement before entry applies where a search warrant has been issued under section 54B.
- Clause 13 repeals section 54E of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992**. Section 54E provides for a power to make an application for an order of the Magistrates' Court to require a person to answer questions or produce documents to an authorised officer. It is not intended to retain these powers within the new inspection and enforcement scheme as new sections 54AI and 54AJ will provide for answering questions and producing documents.
- Clause 14 inserts a new Division heading as Division 4 of Part 8 of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992**. The heading denotes the provisions in Part 8 that provide for seized documents and other things.
- Clause 15 inserts a new Division heading as Division 5 of Part 8 of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** to denote the provisions that provide for offences and the protection against self-incrimination.
- Clause 16 inserts new sections 54J to 54L into new Division 5 to Part 8 of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992**.

New section 54J of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** creates an offence of failure to comply with the requirements of an authorised officer. The provision provides that a person commits an offence if without reasonable excuse, the person fails or refuses to comply with a requirement of an authorised officer under the Act. The maximum penalty for this offence is in the case of a corporation 100 penalty units and in any other case 50 penalty units.

New section 54K of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** creates an offence of obstructing an authorised officer or a person assisting an authorised officer. A person commits the offence if the person obstructs, threatens or intimidates an authorised officer who is performing a function or exercising a power or a person who is assisting an authorised officer. The maximum penalty for this

offence is 100 penalty units. Section 72A of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** applies to the new offence, meaning that, if a body corporate commits the offence, officers of the body corporate also commit the offence.

New section 54L of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** creates an offence of false and misleading conduct or information. A person commits the offence if the person provides any information or produces any document or engages in any other conduct towards an authorised officer while they are performing a function or exercising a power, if the person knows that the information or conduct is or the document contains information that is false, or misleading in a material particular. The maximum penalty for this offence is in the case of a corporation 100 penalty units and in any other case 50 penalty units. Section 72A of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** applies to the new offence, meaning that, if a body corporate commits the offence, officers of the body corporate also commit the offence.

- Clause 17 inserts a new Division heading as Division 6 of Part 8 of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992**. The heading denotes the provisions in Part 8 that provide for testing.
- Clause 18 inserts a new Division heading as Division 7 of Part 8 of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992**. The heading denotes the provisions in Part 8 that provide for other compliance measures not dealt with in the other Divisions of that Part.
- Clause 19 amends section 57(3) of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** to provide expressly that any action for the recovery of costs associated with the seizure of chemical products and agricultural produce may be taken in a court of competent jurisdiction and the costs can be recovered as a debt.
- Clause 20 makes miscellaneous amendments to section 58 of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** to clarify and modify the provision in relation to debt recovery and broaden the scope of the directions that may be included in a destruction notice. These amendments provide that a notice may, in addition to dealing with the destroying of

chemical products, fertiliser, stock food, agricultural produce, plants or stock, also provide for otherwise dealing with the thing by alternatives means such as recycling. The amendments also include an express provision that action for the recovery of costs may be taken in a court of competent jurisdiction and the costs can be recovered as a debt.

- Clause 21 inserts a new Part heading before section 64 of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** as Part 8A. This groups together in new Part 8A the existing provisions for reviews and appeals.
- Clause 22 makes amendments to section 72A of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** to apply accessorial liability to officers of a body corporate where the body corporate commits an offence against new sections 54J, 54K and 54L.
- Clause 23 inserts a new Part heading after section 73 of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** as Part 9A. This groups together in new Part 9A existing provisions of a general nature and the new section 73A dealing with how requirements may be made and documents served.
- Clause 24 inserts new section 73A of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** that enables an authorised officer to make a requirement to a person orally or in writing. The new provision provides for the service requirements for a written notice or other document under the Act. New section 73A also provides for the service requirements for written notice or documents served on a body corporate.

#### **Division 2—Labelling**

- Clause 25 amends section 4(1) of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** to insert a definition of *approved label* and amend the definition of *advice note* to encompass the new concept of an approved label. The new definition and consequential amendment are required to enable authorised officers to enforce compliance with new labels approved by the Australian Pesticides and Veterinary Medicines Authority and as defined in the AgVet Code of Victoria.

Clause 26 inserts new section 9(10) of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** to construe a reference to "label" in section 9 to be a reference to the defined term *approved label*. This is limited to the circumstance that there is an approved label that applies to a label as defined under the Act.

### **Division 3—Administrative arrangements**

Clause 27 amends section 4(1) of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** to insert a definition of *Secretary*, repeal the definitions of *chief administrator* and *Secretary to the Department of Health* and substitute the definition of *Department* to update it as a result of machinery of government changes. The clause also repeals section 4(6) of the Act that provides for a change of name of the Department under the **Public Administration Act 2004**. The provision is redundant as these matters are now dealt with by section 38AAA of the **Interpretation of Legislation Act 1984**, which applies across the statute book.

Clause 28 amends section 50 of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** to reflect the new inspection and enforcement powers introduced by the Bill in respect of notices for the regulation of the use of land for various activities. References to chief administrator and authorised officer are replaced with references to the Secretary.

Clause 29 repeals section 63 of the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** to remove the confidentiality requirements that apply to commercial information. The provision is no longer required as the handling of personal information or commercial information under the Act is adequately addressed by the application of the **Privacy and Data Protection Act 2014** and the **Agricultural and Veterinary Chemicals Code Act 1994 (Cth)**.

Clause 30 makes miscellaneous amendments to the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** to replace references to "chief administrator" with references to "Secretary". This is in line with modern terminology.

### **Part 3—Amendment of Catchment and Land Protection Act 1994**

- Clause 31 repeals section 38(5) of the **Catchment and Land Protection Act 1994** to remove certain requirements of a land management notice that, requires the use of chemicals dangerous to human beings to eradicate or control the spread of pest animals.
- Clause 32 inserts a new section 58C into the **Catchment and Land Protection Act 1994** to establish a power to declare a State prohibited weed or a restricted pest animal to be notifiable species. The term *restricted pest animal* is defined by that Act to mean prohibited pest animals, controlled pest animals and regulated pest animals. The new declaration power supports the operation of existing sections 58A and 58B of that Act that enable emergency declarations to be made for State prohibited weeds and prohibited pest animals. The new declaration power will also support the Secretary to perform their duties under section 21 of that Act.

The new section 58C makes provision for the following matters—

- That declarations may be made in respect of a State prohibited weed or a restricted pest animal and apply to the whole State.
- A declaration must be published in the Government Gazette and comes into operation on the day on which the notice is published.
- The circumstances in which the Minister must vary a declaration to remove a notifiable species from being the subject of the declaration.
- The circumstances in which the Minister must revoke the declaration by publishing a notice in the Government Gazette, and that a revocation comes into effect on the day of publication.
- The additional publication requirement that a notice of variation or revocation of a declaration must be published in a daily newspaper circulating generally in Victoria and on the Department's Internet site.

- The requirement that a person who suspects the presence on land of a notifiable species must notify the Secretary of that fact.

Clause 33 amends the offence provision established by section 70A(1) of the **Catchment and Land Protection Act 1994** to include machinery and equipment. The offence currently applies to a person who fails to take reasonable precautions to ensure a vehicle and any trailer are free of noxious weeds or seeds of any noxious weeds. The purpose of the amendment is to extend the offence to impose new requirements in relation to the spread of noxious weeds.

Clause 34 substitutes section 71 of the **Catchment and Land Protection Act 1994**, which provides for permits that may be issued by the Secretary to authorise a person to deal with a thing that contains or is likely to contain a noxious weed with new sections 71, 71A, 71B and 71C.

New section 71 creates the offences that support the operation of the permit scheme to authorise a person to deal with noxious weeds in certain circumstances. The following offences are created by new section 71—

- New section 71(1) provides that a person commits an offence if without a permit, they buy or offer to buy a noxious weed or seeds or part of a noxious weed in various forms. The penalty for this offence is 480 penalty units in the case of a State prohibited weed or part of that weed and 240 penalty units in the case of a regionally prohibited weed or part of that weed.
- New section 71(2) provides that a person commits an offence if without a permit, they sell or offer to sell a noxious weed, seeds or part of a noxious weed in various forms. The penalty for this offence is 480 penalty units in the case of a State prohibited weed, 240 penalty units in the case of a regionally controlled weed, 60 penalty units in the case of a regionally controlled weed, and 60 penalty units in the case of a restricted weed.
- New section 71(3) provides that a person commits an offence if without a permit, they possess for the purposes of sale in Victoria a noxious weed, seeds of a

noxious weed or part of a noxious weed that is capable of growing. The penalty for this offence is 480 penalty units in the case of a State prohibited weed or part of that weed and 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, 60 penalty units in the case of a restricted weed.

- New section 71(4) provides that a person commits an offence if without a permit, they display in Victoria a noxious weed, seeds of a noxious weed or part of a noxious weed that is capable of growing. The penalty for this offence is 480 penalty units in the case of a State prohibited weed or part of that weed and 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, 60 penalty units in the case of a restricted weed.
- New section 71(5) provides that a person commits an offence if without a permit they plant or propagate in Victoria a noxious weed, the seeds of a noxious weed or part of a noxious weed that is capable of growing. The penalty for this offence is 480 penalty units in the case of a State prohibited weed or part of that weed and 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, 60 penalty units in the case of a restricted weed.
- New section 71(6) provides that a person commits an offence if without a permit, they wilfully bring or cause to be brought into Victoria a noxious weed, seeds of a noxious weed or part of a noxious weed that is capable of growing. The penalty for this offence is 480 penalty units in the case of a State prohibited weed or part of that weed and 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, 60 penalty units in the case of a restricted weed.
- New section 71(7) provides that a person commits an offence if without a permit, they transport within Victoria a noxious weed, seeds of a noxious weed or

part of a noxious weed that is capable of growing. The penalty for this offence is 480 penalty units in the case of a State prohibited weed or part of that weed and 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, 60 penalty units in the case of a restricted weed.

- New section 71(8) provides that a person commits an offence if without a permit, they remove or cause to be removed, soil, sand, gravel or stone which contains a noxious weed or is likely to contain a noxious weed that is capable of growing or which comes from land on which noxious weeds grow. The penalty for this offence is 480 penalty units in the case of a State prohibited weed or part of that weed and 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, 60 penalty units in the case of a restricted weed.
- New section 71(9) provides that a person commits an offence if without a permit, they sell, soil, sand, gravel or stone which contains a noxious weed or is likely to contain a noxious weed that is capable of growing or which comes from land on which noxious weeds grow. The penalty for this offence is 480 penalty units in the case of a State prohibited weed or part of that weed and 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, 60 penalty units in the case of a restricted weed.
- New section 71(10) provides that a person commits an offence if without a permit, they 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. The penalty for this offence is 480 penalty units in the case of a State prohibited weed or part of that weed and 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, 60 penalty units in the case of a restricted weed.

- New section 71(11) provides that a person commits an offence if without a permit, they sell fodder, grain or produce which contains the seeds or any part of a noxious weed that is capable of growing. The penalty for this offence is 480 penalty units in the case of a State prohibited weed or part of that weed and 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, 60 penalty units in the case of a restricted weed.
- New section 71(12) provides that a person commits an offence if without a permit, they remove or cause to be removed, a substance, vehicle, equipment or machinery or any item used in primary production which contains the seeds or any part of a noxious weed that is capable of growing. The penalty for this offence is 480 penalty units in the case of a State prohibited weed or part of that weed and 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, 60 penalty units in the case of a restricted weed.
- New section 71(13) provides that a person commits an offence if without a permit, they sell, 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 part of a noxious weed that is capable of growing. The penalty for this offence is 480 penalty units in the case of a State prohibited weed or part of that weed and 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, 60 penalty units in the case of a restricted weed.
- New section 71(14) provides that a person commits an offence if without a permit, they sell an animal which is carrying seeds or any other part of a noxious weed that is capable of growing. The penalty for this offence is 480 penalty units in the case of a State prohibited weed or part of that weed and 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,

60 penalty units in the case of a restricted weed. This offence is subject to an exception set out in new section 71(18). The offence does not apply to the sale of farm animals direct to a meat processing facility within the meaning of the

- New section 71(15) provides that a person commits an offence if without a permit, they 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. The penalty for this offence is 480 penalty units in the case of a State prohibited weed or part of that weed and 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, 60 penalty units in the case of a restricted weed.
- New section 71(16) provides that a person commits an offence if without a permit, they 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. The penalty for this offence is 480 penalty units in the case of a State prohibited weed or part of that weed and 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, 60 penalty units in the case of a restricted weed.
- New section 71(17) provides that a person commits an offence if without a permit, they deposit on land a noxious weed or the seeds of a noxious weed that are apparently capable of germinating. The penalty for this offence is 480 penalty units in the case of a State prohibited weed or part of that weed and 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, 60 penalty units in the case of a restricted weed.

New section 71A establishes a permit scheme relating to noxious weeds. A permit may be granted for up to 3 years. A permit may be granted by the Secretary to permit a person to do the acts or things specified in new section 71(1) to (17) subject to any conditions. The conditions may provide for any activities permitted to be carried out by a person or class of person on

behalf of the permit holder. The conditions that are attached to a permit may also provide for the areas or places and times when any permitted activity may be carried out. A permit may also be subject to a requirement that the holder of the permit pay an annual fee determined in accordance with the **Conservation, Forests and Lands Act 1987** and that is specified in the permit.

New section 71A(8) creates an offence of failure to comply with the conditions of a permit. A person who holds a permit commits the offence if they fail to comply with its conditions. The penalty for this offence is a maximum of 120 penalty units.

New section 71B provides for matters related to the revocation of a permit issued under new section 71A. A permit may be revoked if the holder of the permit has contravened the **Catchment and Land Protection Act 1994** or any conditions of the permit. The Secretary is required to give notice to the holder of a permit of any proposal to revoke it, the grounds for the proposal, and that the person may make written submissions about the matter within 28 days of being served notice. The Secretary must consider any submissions made by the permit holder.

New section 71C provides that a permit holder may surrender the permit to the Secretary in writing.

- Clause 35 amends section 72 of the **Catchment and Land Protection Act 1994**, which provides for the destruction of noxious weeds to insert the defined terms *goods* and *infested goods* to replace the definition of *infested* in subsection (8). The new definition of *goods* is given a meaning that refers to any animal or part of an animal or item or thing referred to in the offences in new section 71(1) to (17). The new definition of *infested goods* is given a broader meaning that includes any goods that contain or are carrying a noxious weed or any seeds or other part of a noxious weed capable of growing.
- Clause 36 amends section 77 of the **Catchment and Land Protection Act 1994** to provide for permits or renewal of permits to bring a pest animal into Victoria or to keep, sell or release a pest animal in Victoria. The amendments introduce a new requirement to apply for the renewal of a permit before its expiry and that a permit may be granted for a period of up to 10 years and be limited to any place, species of animal or circumstance. The amendments also provide for a broader range of conditions that

may be attached to a permit to provide; for the securing and keeping of animals, the requiring of animals to be sterilised, the requiring of animals to be identified (by implant, branding or otherwise), the limiting of animals which may be brought into Victoria to be kept, sold or released, the limiting of activities permitted under permit to be carried out by specified persons or a class of persons on behalf of the permit holder or otherwise, and limiting activities to being carried out at specified areas or places or times.

- Clause 37 amends section 78 of the **Catchment and Land Protection Act 1994** to clarify that the power to revoke a permit is in respect of a permit issued under section 77 of that Act.
- Clause 38 inserts new section 78A of the **Catchment and Land Protection Act 1994** that provides the holder of a permit issued under section 77 of that Act may surrender it in writing to the Secretary.
- Clause 39 inserts new section 79B of the **Catchment and Land Protection Act 1994** to provide authorised officers with a power to require the production of documents or records. The power is available for the purpose of ascertaining whether or not a person is complying with that Act or the regulations. An authorised officer may examine any documents or records produced and make extracts, copies or notes of the contents of the documents or records.
- Clause 40 amends section 81 of the **Catchment and Land Protection Act 1994**, which gives the power to an authorised officer to enter and search land for certain reasons including if the authorised officer is seeking to ascertain whether or not a regionally prohibited weed, regionally controlled weed or established pest animal is present or not present on the land. The amendments include the express limitation on the power of entry and search under section 81 in that it does not apply to a dwelling. The amendments also provide that the power of an authorised officer to take samples without payment operate in accordance with the new definition of *goods* in new section 72(8) substituted by clause 35.

Subclause (5) repeals sections 81(5) and (6) of the **Catchment and Land Protection Act 1994** to remove the requirement that an occupier present during a search must consent to the taking of,

or the requirement to give any thing during the search and provide a signed acknowledgement.

- Clause 41 amends section 82 of the **Catchment and Land Protection Act 1994**, which provides for an emergency entry by an authorised officer. The amendments provide for an emergency entry to occur if an authorised officer believes on reasonable grounds that a State prohibited weed may be on the land. The amendments also introduce a new power to enable an authorised officer who is carrying out an emergency entry to require a person to produce any document if the authorised officer reasonably believes it to be relevant to ascertain whether or not that Act or the regulations have been complied with. Accompanying powers are also provided so that an authorised officer may examine, take extracts or make copies or remove any document produced to the authorised officer.
- Clause 42 amends section 83D of the **Catchment and Land Protection Act 1994** that provides for searches of vehicles and boats by authorised officers or police officers. The amendments introduce the new power for an authorised officer or police officer during a search to seize any pest animal or thing found during the course of the search, if they hold a belief on reasonable grounds that this is necessary to prevent its concealment, loss or destruction and its use in the commission or continued commission of an offence against Division 3 of Part 8 of that Act.
- Clause 43 amends section 83E of the **Catchment and Land Protection Act 1994**, which provides for the search of vehicles for noxious weeds. The amendments expand the power to make it available to a police officer and also to be exercised in respect of a trailer, machinery or equipment.
- Subclause (3) substitutes section 83E(2) of the **Catchment and Land Protection Act 1994** to provide for an expanded range of things that a police officer or authorised officer may do in conducting a search. The things include directing or taking steps to ensure a vehicle etc. is free from such seeds or any part of a noxious weed as well as inspections and taking photograph or making copies or extracts of documents found in the course of a search.
- Clause 44 inserts new section 83EA into the **Catchment and Land Protection Act 1994** to provide authorised officers with a power

to search personal property. The power may be exercised at any time without a warrant if the authorised officer reasonably believes a parcel, basket, bag, box or any receptacle thing has been, is or is likely to be used in the importing, keeping, trading or releasing of pest animals or noxious weeds in contravention of that Act. While carrying out a search the authorised officer may do any of the things listed under new section 83AE(a) to (e), including taking photographs, taking and keeping samples, destroying a pest animal and seizing any thing found during the course of the search.

- Clause 45 makes a technical amendment to omit the reference to "(1)" in section 84 of the **Catchment and Land Protection Act 1994**.
- Clause 46 substitutes section 84(2) and (3) of the **Catchment and Land Protection Act 1994** with new section 84AA. New section 84AA introduces a protection against self-incrimination. The protection applies to any requirement under Part 9 of the **Catchment and Land Protection Act 1994** to produce a document or record or answer a question. New section 84AA(3) requires that if before a natural person produces a document, record or answers a question they claim that it would tend to incriminate the person or make the person liable to a penalty, then the document, record or answer will not be admissible in any criminal or civil proceeding except for the offence against section 84(e) of the **Catchment and Land Protection Act 1994**.
- Clause 47 amends section 85 of the **Catchment and Land Protection Act 1994** to enable notices and documents to be given by electronic communication.
- Clause 48 inserts new section 85B of the **Catchment and Land Protection Act 1994**, which creates a new offence for a land owner who fails to notify the Secretary of the transfer of land or the transfer of management of land that is the subject of a land management notice, a priority area notice or a directions notice. The notice must be given to the Secretary within 7 days of a sale or transfer occurring and include the details set out in new section 85B(2). A maximum penalty of 10 penalty units applies to the new offence.
- Clause 49 inserts new Division 3 of Part 11 of the **Catchment and Land Protection Act 1994** to deal with transitional matters to support the operation of the amendments to that Act.

New section 109 defines the term *amending Act* to mean the Bill.

New section 110 provides for the transitional arrangements that apply to the commencement of clause 34. The transitional provision provides that a permit granted under section 71 in force immediately before the commencement of clause 34 continues in force until its expiry. The transitional provision also provides that clause 34 is to apply to offences alleged to have been committed on or after the commencement of that clause, and if an offence is alleged to have been committed between 2 dates with one of those being before the commencement of that clause then the offence is taken to have been committed before that commencement.

#### **Part 4—Amendment of Dairy Act 2000**

- Clause 50 substitutes the definition of *Department* in section 3 of the **Dairy Act 2000** to change an obsolete reference to the Department of Environment and Primary Industries to a reference to the Department of Jobs, Precincts and Regions. This amendment reflects the current department name based on previous machinery of government changes.
- Clause 51 repeals section 18(5) of the **Dairy Act 2000** to remove the exception that persons appointed as officers or employees of Dairy Food Safety Victoria (the *Authority*) under section 18 are not subject to the **Public Administration Act 2004**. This reflects the current operation of the **Public Administration Act 2004**, which designates the Authority as a public entity whose members, officers and employees are therefore subject to the provisions of the **Public Administration Act 2004** with the exception of Part 3. Application of the **Public Administration Act 2004** will ensure that the code of conduct, public sector values, and employment principles apply to the Authority's officers and employees, in addition to its members.
- Clause 52 repeals the transitional provisions in sections 63 and 64 of the **Dairy Act 2000** that are now spent and redundant.

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

- Clause 53 amends section 4(1) of the **Drugs, Poisons and Controlled Substances Act 1981** to establish the definition of *animal health*

*and welfare emergency order* an order made under new section 22J by the Secretary. The Secretary may make an order to temporarily authorise specified classes of persons, such as veterinary practitioners, to deal with a poison or controlled substance in the case of an animal health or welfare emergency or where a serious risk to the health or welfare of animals exists.

Clause 54 inserts new Division 6 into Part II of the **Drugs, Poisons and Controlled Substances Act 1981** to provide for animal health and welfare emergencies.

New section 22I establishes the definitions of *chief veterinary officer* and *Secretary* to identify the persons who may exercise the powers or functions provided for under new Division 6.

New section 22J provides that the Secretary may make an animal health and welfare emergency order if they hold a belief that it is necessary to do so to respond to an actual or anticipated animal health or welfare emergency, or to address a serious risk to the health or welfare of animals. It is envisaged that some of the kinds of scenarios where such an order would be made may include emergencies such as a bushfire or a biosecurity incident. An animal and health welfare emergency order in a similar manner to a public health emergency order made under section 22D of the **Drugs, Poisons and Controlled Substances Act 1981**, suspends the usual legal requirements for the possession, use and supply of poisons or controlled substances.

New section 22K sets out the matters that must be specified in an animal health and welfare emergency order, such as the persons or class of persons to whom the order will apply and in what circumstances. As an animal health and welfare emergency order suspends the usual legal requirements for the possession, use and supply of poisons or controlled substances, it is important that there is certainty as to the extent of the authorisation in relation to the poison or controlled substance, persons authorised, the location, terms and operation of an order, and the period of the order. Section 22K(f) provides that an animal health and welfare emergency order may not be in force for a period exceeding 6 months.

New section 22L provides that an animal health and welfare emergency order authorises a person, or class of persons under the **Drugs, Poisons and Controlled Substances Act 1981** to obtain and possess, store, use, sell, or supply specified poisons or

controlled substances when acting in accordance with an order made under new section 22J.

New section 22M provides that a subsequent animal health and welfare emergency order may extend, amend or revoke an animal health and welfare emergency order made by the Secretary.

New section 22N enables the Secretary to delegate any of the Secretary's powers or functions under new Division 6 of Part II to the chief veterinary officer.

New section 22O provides for the publication of the orders in the Government Gazette and commencement of an order. An animal health and welfare emergency order commences on a date specified in it or if a date is not specified then the date the order is published in the Government Gazette.

Clause 55 amends section 61 of the **Drugs, Poisons and Controlled Substances Act 1981**, to establish the new definitions for Part IVA.

Subclause (1)(a) amends section 61(1) of the **Drugs, Poisons and Controlled Substances Act 1981** to insert a definition of *minor term or condition* to create another class of condition that applies to an authority for the purpose of amended section 69C, which provides offences for the contravention of a term, condition, limitation or restriction of an authority.

Subclause (1)(a) also inserts a definition of *protected information* and *national criminal history check*.

The definition of *protected information* is required to set the limits of the kind of information, document or thing that the procedures and requirements for protected information apply under Part IVA. The current definition of protected information in Part IVB is also amended by the Bill to ensure consistency with this new definition.

The definition of *national criminal history check* is inserted to clarify the type of criminal check required of an applicant for an authority under section 62, or any associate of an applicant. An equivalent definition is inserted into section 69N which will apply in relation to an applicant for a poppy cultivation or poppy processing licence or any associate of an applicant.

Subclause (1)(b) amends the definition of *low-THC cannabis* in section 61(1) of the **Drugs, Poisons and Controlled Substances**

**Act 1981** to increase, and make consistent with other jurisdictions, the maximum allowable level of tetrahydrocannabinol for cultivated plants from 0.35 to 1.0.

Subclause (1)(c) substitutes the definition of *serious offence* in section 61(1) of the **Drugs, Poisons and Controlled Substances Act 1981** with a new definition to limit the range of offences caught by the defined term and therefore prevent an undue restriction on the eligibility of applicants for an authority.

Subclause (1)(d) amends the definition of *Secretary* in section 61(1) of the **Drugs, Poisons and Controlled Substances Act 1981** to change an obsolete reference to the Department of Environment and Primary Industries to a reference to the Department of Jobs, Precincts and Regions reflecting machinery of government changes.

Subclause (2) amends section 61(2) of the **Drugs, Poisons and Controlled Substances Act 1981** to clarify that for the purposes of sections 63 and 64, an associate of an applicant for an authority refers to a person over 18 years of age. This ensures consistency with the meaning of associate provided in section 69NA(1) for the alkaloid poppy and poppy straw scheme.

Subclause (3) substitutes "relative" with "spouse (including de facto spouse)" in section 61(2)(c) of the **Drugs, Poisons and Controlled Substances Act 1981** to narrow the persons considered to be an associate of an applicant and therefore prevent the undue restriction on the eligibility of applicants for an authority.

Subclause (4) repeals the definition of *relative* in section 61(3) as a consequence of the amendment made to section 61(2)(c) of the **Drugs, Poisons and Controlled Substances Act 1981** by subclause (3).

Clause 56 amends section 62 of the **Drugs, Poisons and Controlled Substances Act 1981** to modify the scope and requirements for making an application for an authority to cultivate and process low-THC cannabis.

Subclause (1) substitutes section 62(1) to modify the scope of the authorisations that are available under an authority that may be applied for under this provision. An application made under substituted section 62(1) will be for authorisation to do any of the things listed in the provision in respect of low-THC cannabis.

Subclause (1) modifies the existing scope of an application made under section 62(1) of the **Drugs, Poisons and Controlled Substances Act 1981** that is limited to alternative authorisation for the things specified in the provision. This amendment expands the operation of section 62 of the **Drugs, Poisons and Controlled Substances Act 1981** so that an applicant will no longer be required to apply for authorities depending on the alternative things to be authorised.

Subclause (2) imposes an additional requirement on applicants under section 62(2) of the **Drugs, Poisons and Controlled Substances Act 1981** that an application for an authority must include any prescribed information.

Clause 57 amends section 63 of the **Drugs, Poisons and Controlled Substances Act 1981** to provide for the investigations and inquiries that the Secretary is required to carry out on receiving an application for an authority.

Substituted section 63(1) of the **Drugs, Poisons and Controlled Substances Act 1981** provides that the Secretary must investigate and make inquiries that are necessary to determine an application for an authority. The Secretary may also conduct an inspection of an applicant's premises that relate to the application. Substituted section 63(1) introduces the requirement that the applicant or any associate must provide to the Secretary a national criminal history check that was undertaken within 6 months of the date it is submitted to the Secretary. This information may form part of the determination of whether or not an applicant is a fit and proper person to hold an authority.

Amended section 63(2) modifies existing section 63(2) of the **Drugs, Poisons and Controlled Substances Act 1981** so that the Secretary must refer a copy of the application and any supporting documents to the Chief Commissioner of Police within 7 days of receiving the application and documentation.

New section 63(3) provides for the inquiries that the Chief Commissioner of Police must undertake and the requirement to report to the Secretary. If the Chief Commissioner of Police opposes the application based on protected information, new section 69AC(1) (introduced by clause 612), applies to the requirement in this provision to provide reasons. The Chief Commissioner of Police may oppose or not oppose the issuing of the authority and must report this decision to the Secretary within

28 days of being referred the application. This may mean protected information is considered as part of the Chief Commissioner deciding whether to oppose or not oppose an application for an authority and also in determining whether applicants or associates are fit and proper persons.

Clause 58 inserts new section 63A into the **Drugs, Poisons and Controlled Substances Act 1981** to provide that the Secretary must not issue an authority if the Chief Commissioner of Police opposes it being issued.

Clause 59 amends section 64(1)(c) of the **Drugs, Poisons and Controlled Substances Act 1981** to enable the regulations to prescribe matters relating to the suitability of an applicant's property or premises for cultivation, processing, sale or supply of low-THC cannabis. This amendment provides clarity regarding the types of matters to be considered in determining applications and provides for greater transparency in the decision-making process.

Clause 60 amends section 65 of the **Drugs, Poisons and Controlled Substances Act 1981** to modify and clarify the requirements for the Secretary in determining an application for an authority.

Subclause (1) amends section 65(1) of the **Drugs, Poisons and Controlled Substances Act 1981** to provide that the discretion of the Secretary to make a determination is subject to the requirement under new section 63A that the Secretary must refuse to issue an authority if a decision is made by the Chief Commissioner of Police to oppose the issuing of an authority.

Subclause (2) amends section 65(2) of the **Drugs, Poisons and Controlled Substances Act 1981** to provide that the Secretary must notify the applicant of the decision to issue or refuse to issue an authority within 21 days of making the decision.

Subclause (3) inserts new section 65(3) of the **Drugs, Poisons and Controlled Substances Act 1981** to provide for the following notification requirements of the Secretary in the case of a refusal to issue an authority—

- the Secretary must notify the Chief Commissioner of Police of the refusal;
- the Secretary must provide reasons for the refusal to the applicant and, if the decision is based on protected information, the Secretary under new section 69AC(2)

must not disclose any protected information and, if applicable, specify that some or all of the decision is based on advice from the Chief Commissioner of Police;

- the Secretary must inform the applicant that they can seek review of the decision by VCAT.

Clause 61 inserts new section 66(4) and (5) into the **Drugs, Poisons and Controlled Substances Act 1981** to provide that an authority in relation to low-THC cannabis is subject to any terms, conditions, limitations and restrictions that are prescribed to be minor terms or conditions and is also subject to any other prescribed terms, conditions, limitations and restrictions.

Clause 62 inserts new section 66A into the **Drugs, Poisons and Controlled Substances Act 1981** to provide for the application of prescribed terms and conditions.

New section 66A(1) specifies the date a term, condition, limitation or restriction prescribed under new section 66(4) or (5) is to apply.

New section 66A(2) requires the Secretary to provide written notice to an authority holder of any term, condition, limitation or restriction applicable to the authority.

Clause 63 amends section 67 of the **Drugs, Poisons and Controlled Substances Act 1981**, which provides for the making of an application for the renewal of an authority.

Subclause (1) amends section 67(1)(a) of the **Drugs, Poisons and Controlled Substances Act 1981** to provide that a renewal application must be made at least 60 days before the expiry of the current authority. This ensures adequate time for the necessary inquiries and investigations to be undertaken by the Secretary and for the application to be referred to and considered by the Chief Commissioner of Police.

Subclause (2) substitutes section 67(2) of the **Drugs, Poisons and Controlled Substances Act 1981** and inserts new section 67(2A) to (2C). Substituted section 67(2) provides that the Secretary must carry out any necessary investigation and inquiries, may conduct an inspection of any specified premises, and must give a copy of the renewal application to the Chief Commissioner of Police within 7 days of receiving the

application and any supporting documents. This allows for the investigation of the applicant by the Chief Commissioner of Police including on the basis of protected information.

New section 67(2A) provides for the reporting to the Secretary on an investigation of the renewal application by the Chief Commissioner of Police. New section 67(2A) requires the Chief Commissioner of Police to notify the Secretary of the decision to either oppose or not oppose the application (with reasons) within 28 days of receiving the application from the Secretary. In the case where the decision is based on protected information, new section 69AC(1) applies to the requirement in this provision to provide reasons.

New section 67(2B) provides that the Secretary must not renew an authority that the Chief Commissioner of Police opposes.

New section 67(2C) provides that subject to any decision of the Chief Commissioner to oppose the renewal of an authority, the Secretary may renew or refuse to renew an authority.

Subclause (3) inserts new section 67(4) to provide that the Secretary must, within 21 days of making the decision to renew an authority or refuse to renew an authority, notify the applicant in writing of the decision, and in the case of a refusal of an application provide reasons and notify the applicant of their right to apply to VCAT for review of the decision. If the reasons are based on protected information, new section 69AC(2) applies so that the Secretary must not disclose any protected information and should specify that the decision is partially or wholly based on the advice of the Chief Commissioner of Police. Where the Secretary refuses a renewal application, the Secretary must notify the Chief Commissioner of Police.

Clause 64 amends section 69A of the **Drugs, Poisons and Controlled Substances Act 1981**, which provides for the suspension or cancellation of an authority.

Subclause (1) amends section 69A(1)(d) to additionally provide for the cancellation or suspension of an authority where any associate of the authority holder is no longer a fit and proper person or a fit and proper person to be associated with. This amendment ensures consistency with Part IVB of the **Drugs, Poisons and Controlled Substances Act 1981** that deals with alkaloid poppy or poppy straw authorities.

Subclause (2) inserts new section 69A(1)(ea) to provide for the cancellation or suspension of an authority by the Secretary at the request of the Chief Commissioner of Police on the basis of protected information concerning the holder or an associate of the holder of an authority.

Subclause (3) amends section 69A(2) to omit the words "and any document issued to the former holder must be surrendered to the Secretary on demand" for the purpose of creating a separate offence under new section 69A(7) of the **Drugs, Poisons and Controlled Substances Act 1981**.

Subclause (4) inserts new section 69A(3) to (7) into the **Drugs, Poisons and Controlled Substances Act 1981**.

New section 69A(3) provides that the Chief Commissioner of Police may, at any time, request that the Secretary cancel or suspend an authority on the basis of protected information.

New section 69A(4) requires the Chief Commissioner to make such a request in writing. New section 69AC(1) applies to the requirement in this provision to provide reasons.

New section 69A(5) provides that the Secretary must suspend or cancel an authority if requested to do so by the Chief Commissioner of Police on the basis of protected information.

New section 69A(6) sets out the notice requirements for the Secretary if an authority is suspended or cancelled under section 69A(1).

New section 69A(7) creates an offence for an authority holder who does not surrender their authority and any related documents within 14 days of the suspension or cancellation of the authority. The offence has a maximum penalty of 20 penalty units. The new offence provision ensures consistency with the existing offence under section 69SC of the **Drugs, Poisons and Controlled Substances Act 1981** that applies to the alkaloid poppies scheme.

Clause 65 inserts new section 69AC into the **Drugs, Poisons and Controlled Substances Act 1981** to provide for the handling of protected information when the Chief Commissioner of Police has opposed an application for the issue or renewal of an authority, or requested the suspension or cancellation of an authority, on the basis of protected information.

New section 69AC(1) specifies that the Chief Commissioner of Police may make a decision to include or not include protected information when providing reasons to the Secretary as to the issuing, renewal, suspension or cancellation of an authority. If the Chief Commissioner decides not to include protected information, the Chief Commissioner is to specify that the Chief Commissioner's decision is based wholly or partly on protected information and, to the extent that the decision is based on protected information, reasons will not be given.

New section 69AC(2) sets out the requirements for the Secretary when providing reasons to the applicant or authority holder, when the Secretary's decision is partially or wholly based on protected information. The Secretary must not disclose any protected information in giving reasons.

New section 69AC(3) provides that section 8 of the **Administrative Law Act 1978**, which requires VCAT to give reasons for a decision upon request, does not apply to a decision to which the new section applies. Consistent with other provisions being inserted by this amending Act, this ensures that protected information is not disclosed.

Clause 66 inserts new sections 69BA to 69BF into the **Drugs, Poisons and Controlled Substances Act 1981**.

New section 69BA(1) provides that VCAT must enquire of the Secretary whether the decision to be reviewed is based on protected information on receiving an application for review of a decision under section 69B of the **Drugs, Poisons and Controlled Substances Act 1981**. New section 69BA(2) requires the Secretary to respond to VCAT's enquiry under section 69BA(1) in writing.

New section 69BB(1) requires VCAT to appoint a special counsel to represent the interests of the applicant where the Secretary has informed VCAT that the decision to be reviewed is based on protected information.

New section 69BB(2) specifies the mandatory qualification and skill requirements for that special counsel.

New section 69BB(3) specifies that the special counsel may communicate with the party to the review whose interests the special counsel is representing or any representative of the party

before attending the hearing or obtaining any confidential affidavit.

New section 69BB(4) specifies the requirements that the special counsel must not communicate or take instructions from parties being represented in the review after the special counsel obtains any confidential affidavit or where the review hearings have commenced. The exceptions to these requirements are where VCAT grants leave, to communicate any order made by VCAT or in accordance with the new procedure introduced by new section 69BD(5).

New section 69BB(5) provides that the special counsel may be required to sign a confidentiality agreement.

New section 69BC provides for preliminary procedures for hearing a review of a decision that was based on protected information.

New section 69BC(1) provides that the Chief Commissioner of Police must be joined as a party to the proceeding upon the Secretary informing VCAT that the decision was based on protected information, and for VCAT to first determine whether the information purported to be protected information is protected information.

New section 69BC(2) provides that a hearing or part of a hearing to determine whether information is protected information must be held in private.

New section 69BC(3) specifies the circumstances in which certain parties may attend a hearing under new section 69BC(2).

New section 69BC(4) provides that parties entitled to be present at a hearing under new section 69BC(2) may make submissions as to whether the relevant evidence is protected information.

New section 69BC(5) provides for VCAT to decide whether evidence adduced at a hearing under new section 69BC(4) constitutes protected information.

New section 69BC(6) provides that where VCAT decides that evidence adduced under new section 69BC(4) is not protected information, any party excluded from the hearing under new section 69BC(3) be admitted to the proceedings.

New section 69BD provides for procedures that apply where VCAT has decided that the evidence adduced under new section 69BC(4) is protected information.

New section 69BD(1) provides that where VCAT has decided that the evidence adduced under new section 69BC(4) is protected information, only certain parties are entitled to be present at the hearing of the proceeding to the extent that it relates to that protected information.

New section 69BD(2) provides that each party who is entitled to be present at the hearing of the proceeding may make submissions as to the weight to be given to the protected information, the character of the applicant, and whether in all the circumstances the authority should be issued, renewed or reinstated (as the case may be).

New section 69BD(3) provides that in making a determination where protected information has been adduced, VCAT must decide the weight to be given to the protected information, whether the applicant is a fit and proper person, and whether in all the circumstances the authority should be issued, renewed or reinstated (as the case may be).

New section 69BD(4) sets out requirements and precautions for VCAT to prevent release of the protected information.

New section 69BD(5) provides that the special counsel must submit written questions to VCAT for approval if further instructions from the applicant in relation to the protected information are required.

New section 69BD(6) provides that before VCAT can approve the written questions from the special counsel, VCAT must first hear submissions from the Chief Commissioner of Police on the content of the questions.

New section 69BD(7) provides for the requirement relating to the information that can be included in an order issued by VCAT to ensure protected information is not disclosed. The requirement is to operate despite section 117 of the **Victorian Civil and Administrative Tribunal Act 1998** that sets out the requirement to give reasons for final orders made by VCAT.

New section 69BD(8) provides that VCAT may publish reasons for its decision to the extent that it does not relate to protected information.

New section 69BE provides that the Chief Commissioner of Police may request the Secretary to reconsider a decision without relying on a report or decision of the Chief Commissioner of Police that was based on protected information.

New section 69BE(1) specifically provides that the request to reconsider a decision may only be made prior to a final determination by VCAT in a proceeding involving protected information under new section 69BC or 69BD.

New section 69BE(2) sets out the requirements for the Chief Commissioner of Police, VCAT and the Secretary if a request to reconsider a decision is made under new section 69BE(1).

New section 69BE(3) provides that if the reconsideration of the decision means the authority in question is renewed, issued, or reinstated, any VCAT proceeding currently on foot in relation to the decision is to be terminated immediately.

New section 69BF provides further procedural matters relating to hearings involving protected information.

New section 69BF(1) requires a hearing involving protected information to be constituted by a presidential member of VCAT.

New section 69BF(2) disapplies Subdivision 1 of Division 3 of Part 3 and section 49 of the **Victorian Civil and Administrative Tribunal Act 1998** and section 8 of the **Administrative Law Act 1978** to a hearing involving protected information and where section 69BC or 69BD applies. These disapplied provisions relate to the relevant decision maker or tribunal providing reasons for the decision made.

New section 69BF(3) provides that section 69BF(2) does not apply to the extent that a proceeding does not involve protected information.

Clause 67 substitutes section 69C of the **Drugs, Poisons and Controlled Substances Act 1981** with substituted section 69C to create two offences for a person to contravene a term, condition, limitation or restriction of an authority.

New section 69C(1) creates an offence for an authority holder to contravene a minor term or condition of the authority. This offence recognises that some terms and conditions, which will be prescribed in the regulations, are more minor than those to which the offence created by new section 69C(2) apply. Accordingly,

contravention of the minor conditions should not invoke the same high penalty as the penalty that applies to a person who commits the offence created by new section 69C(2). The maximum penalty for the offence against new section 69C(1) is 20 penalty units.

New section 69C(2) creates an offence for an authority holder to contravene the terms, conditions, limitations or restrictions of an authority, which are not prescribed minor terms or conditions. This recognises the importance of compliance by a person with the authority terms and conditions in the scheme. The maximum penalty for an offence against new section 69C(2) is 100 penalty units.

Clause 68 inserts new sections 69LA and 69LB into the **Drugs, Poisons and Controlled Substances Act 1981**.

New section 69LA provides an inspector with a power to issue an infringement notice on any person believed to have committed a prescribed offence. A prescribed offence will be an infringement offence for the purposes of the **Infringements Act 2006**.

New section 69LB provides that the penalty for an infringement offence is the prescribed penalty for the offence.

Clause 69 inserts new section 69M(1)(ba) to (be) into the **Drugs, Poisons and Controlled Substances Act 1981** to provide for regulation making powers required for the operation of new sections 66(4), 66(5), 66A and 64(1)(c) that are inserted or amended by this Bill. The regulation making powers will enable matters related to terms, conditions, limitations and restrictions for an authority to be prescribed by regulations.

Clause 70 amends the definition of *protected information* and *Secretary*, and inserts a definition of *national criminal history check*, to ensure the alkaloid poppy and poppy straw scheme are consistent with the new definitions inserted by the Bill into section 61 for the low-THC cannabis scheme.

Clause 71 makes miscellaneous amendments to section 69OA of the **Drugs, Poisons and Controlled Substances Act 1981**, which provides that the Secretary must investigate an application made under section 69O for a poppy cultivation licence and specifies the requirements for that investigation.

Subclause (1) substitutes section 69OA(1)(c) so that an applicant or any associate of the applicant must provide to the Secretary a national criminal history check that was undertaken within 6 months of the date it is submitted to the Secretary.

Subclause (2) amends section 69OA(3)(c) to clarify that where the Chief Commissioner of Police's decision to support or oppose the issuing of a poppy cultivation licence is based wholly or partly on protected information, the requirement to provide reasons for the decision is subject to new section 69U.

Subclause (3) substitutes the phrase "not issue the licence" for "refuse to issue the licence" in section 69OA(4) to ensure consistent terminology is used throughout Parts IVA and IVB of the **Drugs, Poisons and Controlled Substances Act 1981**. The amendment makes clear that an action under the provision constitutes a decision for the purposes of an appeal to VCAT under section 69UA.

Clause 72 makes various amendments to section 69OB(4) of the **Drugs, Poisons and Controlled Substances Act 1981**, which sets out the notice requirements for the Secretary upon making a decision to issue or refuse to issue a poppy cultivation licence.

Paragraph (a) amends section 69OB(4)(a) to impose a 21-day timeline within which the Secretary is required to notify an applicant for a poppy cultivation licence of the outcome of their application. Paragraph (b) amends section 69OB(4)(b) to set out the notice requirements for the Secretary in the event of a refusal to issue the licence. These amendments are consistent with the amendments made to section 65(2) and (3) by the Bill in relation to the low-THC cannabis scheme.

Clause 73 makes various amendments to section 69OH of the **Drugs, Poisons and Controlled Substances Act 1981**, which provides that the Secretary must investigate an application made under section 69OG for the renewal of a poppy cultivation licence and specifies the requirements for that investigation.

Subclause (1) amends section 69OH(1)(c) to make clear that the applicant or any associate of the applicant must provide to the Secretary a national criminal history check that was undertaken within 6 months of the date it is submitted to the Secretary.

Subclause (2) amends section 69OH(3)(c) to clarify that where the Chief Commissioner of Police's decision to support or oppose the renewal of a poppy cultivation licence is based wholly or partly on protected information, the requirement to provide reasons for the decision is subject to new section 69U.

Subclause (3) substitutes the words "not renew the relevant licence" with "refuse to renew the licence" in section 69OH(4) to ensure consistent terminology is used throughout Parts IVA and IVB of the **Drugs, Poisons and Controlled Substances Act 1981**. The amendment makes clear that an action under the provision constitutes a decision for the purposes of an application for review to VCAT made under section 69UA.

Clause 74 makes various amendments to section 69OI(5) of the **Drugs, Poisons and Controlled Substances Act 1981**, which sets out the notice requirements for the Secretary upon making a decision to renew or refuse to renew a poppy cultivation licence.

Paragraph (a) amends section 69OI(5)(a) to impose a 21-day timeline within which the Secretary is required to notify an applicant seeking to renew their poppy cultivation licence of the outcome of their application. Paragraph (b) amends section 69OI(5)(b) to set out the notice requirements for the Secretary in the event of a refusal to renew the licence.

Clause 75 makes various amendments to section 69PA of the **Drugs, Poisons and Controlled Substances Act 1981**, which provides that the Secretary must investigate an application made under section 69P and specifies the requirements for that investigation.

Subclause (1) amends section 69PA(1)(c) to require the applicant or any associate of the applicant must provide to the Secretary a national criminal history check that was undertaken within 6 months of the date it is submitted to the Secretary.

Subclause (2) amends section 69PA(3)(c) to clarify that where the Chief Commissioner of Police's decision to support or oppose the issuing of a poppy processing licence is based wholly or partly on protected information, the requirement to provide reasons for the decision is subject to new section 69U.

Subclause (3) substitutes the words "not renew the licence" with "refuse to renew the licence" in section 69PA(4) to ensure consistent terminology is used throughout Parts IVA and IVB of the **Drugs, Poisons and Controlled Substances Act 1981**. The

amendment makes clear that an action under the provision constitutes a decision for the purposes of an application for review to VCAT made under section 69UA.

Clause 76 makes various amendments to section 69PB(4) of the **Drugs, Poisons and Controlled Substances Act 1981**, which sets out the notice requirements for the Secretary upon making a decision to issue or refuse to issue a poppy processing licence.

Paragraph (a) amends section 69PB(4)(a) to impose a 21-day timeline within which the Secretary is required to notify an applicant for a poppy processing licence of the outcome of their application. Paragraph (b) amends section 69PB(4)(b) to set out the notice requirements for the Secretary in the event of a refusal to issue the licence.

Clause 77 makes various amendments to section 69PH of the **Drugs, Poisons and Controlled Substances Act 1981**, which provides that the Secretary must investigate an application made under section 69PG and specifies the requirements for that investigation.

Subclause (1) amends section 69PH(1)(c) to require the applicant or any associate of the applicant must provide to the Secretary a national criminal history check that was undertaken within 6 months of the date it is submitted to the Secretary.

Subclause (2) amends section 69PH(3)(c) to clarify that where the Chief Commissioner of Police's decision to support or oppose the renewal of a poppy processing licence is based wholly or partly on protected information, the requirement to provide reasons for the decision is subject to new section 69U.

Subclause (3) substitutes the words "not renew the licence" with "refuse to renew the licence" in section 69PH(4) to ensure consistent terminology is used throughout Parts IVA and IVB of the **Drugs, Poisons and Controlled Substances Act 1981**. The amendment makes clear that an action under the provision constitutes a decision for the purposes of an application for review to VCAT made under section 69UA.

Clause 78 makes various amendments to section 69PI(5) of the **Drugs, Poisons and Controlled Substances Act 1981**, which sets out the notice requirements for the Secretary upon making a decision to renew or refuse to renew a poppy processing licence.

Paragraph (a) amends section 69PI(5)(a) to impose a 21-day timeline within which the Secretary is required to notify an applicant seeking to renew their poppy processing licence of the outcome of their application. Paragraph (b) amends section 69PI(5)(b) to set out the notice requirements for the Secretary in the event of a refusal to renew the licence

Clause 79 makes various amendments to section 69QA of the **Drugs, Poisons and Controlled Substances Act 1981**, which provide for the suspension and cancellation of a poppy cultivation licence or a poppy processing licence.

Subclause (1) inserts new sections 69QA(1A) to (1C) to mirror new section 69A(3) to (5) of the low-THC cannabis scheme.

New section 69QA(1A) provides that the Chief Commissioner of Police may, at any time, request that the Secretary cancel or suspend a licence on the basis of protected information.

New section 69QA(1B) requires the Chief Commissioner to make such a request in writing, and specifies that section 69U(1) modifies the requirement in this provision to provide reasons.

New section 69QA(1C) provides that the Secretary must suspend or cancel a licence if requested to do so by the Chief Commissioner of Police on the basis of protected information.

Subclause (2) amends section 69QA(2) to impose additional notice requirements on the Secretary if suspending or cancelling a poppy cultivation or poppy processing licence. This amendment mirrors the equivalent provisions inserted by the Bill in new section 69A(6)(b) of the low-THC cannabis scheme.

Clause 80 substitutes section 69U(1) and (2) of the **Drugs, Poisons and Controlled Substances Act 1981**, to provide for the handling of protected information when the Chief Commissioner of Police has opposed an application for the issue or renewal of a poppy cultivation licence or poppy processing licence, or requested the suspension or cancellation of a poppy cultivation licence or poppy processing licence, on the basis of that information. The amendments to section 69U ensure consistency with the language of new section 69AC of the low-THC cannabis scheme. The amendments also update the wording of section 69U to reflect the amendments made to sections 69OB, 69OI, 69PH, 69PI and 69QA of the alkaloid poppy and poppy straw scheme by this Bill.

- Clause 81 repeals section 69UA(1)(b) of the **Drugs, Poisons and Controlled Substances Act 1981** as a consequence of the amendments made to section 69U(1) by this Bill.
- Clause 82 makes various amendments to section 69UB of the **Drugs, Poisons and Controlled Substances Act 1981**, which provides that VCAT must enquire of the Secretary whether the decision to be reviewed is based on protected information. The amendments restructure the provision to mirror the equivalent provisions contained in new section 69BA of the low-THC cannabis scheme introduced by the Bill, including imposing the requirement for the Secretary to respond to VCAT's enquiry in writing.
- Clause 83 makes various amendments to section 69UC of the **Drugs, Poisons and Controlled Substances Act 1981**, which provides for the appointment of special counsel by VCAT to represent the interests of the applicant. The provision is to apply where the Secretary has informed VCAT that the decision to be reviewed is based on protected information. The amendments update the wording of the provision to mirror the equivalent provisions contained in new section 69BB of the low-THC cannabis scheme.
- Clause 84 makes various amendments to section 69UD of the **Drugs, Poisons and Controlled Substances Act 1981**, which provides preliminary procedures for hearing a review of a decision that was based on protected information. The amendments update the wording of the provision to mirror the equivalent provisions contained in new section 69BC of the low-THC cannabis scheme introduced by the Bill. This includes making it mandatory for VCAT to hold a hearing under this section in private.
- Clause 85 makes various amendments to section 69UE of the **Drugs, Poisons and Controlled Substances Act 1981**, which provides for procedures that apply where VCAT has decided that the evidence adduced under section 69UD(3A) is protected information. The amendments update the wording of the provision to mirror the equivalent provisions contained in new section 69BD of the low-THC cannabis scheme introduced by the Bill. This includes specifying which parties may attend a hearing under section 69UD, and their entitlement to make submissions regarding the protected information.

- Clause 86 substitutes section 69UF(2) of the **Drugs, Poisons and Controlled Substances Act 1981** and inserts new subsections (2A) and (2B) which provide for further procedural matters relating to hearings involving protected information. The amendments update the wording of the provision to mirror the equivalent provisions contained in new section 69BE of the low-THC cannabis scheme introduced by the Bill. The amendments also remove the reference to section 101 of the **Victorian Civil and Administrative Tribunal Act 1998** in section 69UF(3), as the provision has been repealed.
- Clause 87 amends section 119(ea) of the **Drugs, Poisons and Controlled Substances Act 1981** to change an obsolete reference to the Department of Environment and Primary Industries with a reference to the Department of Jobs, Precincts and Regions. This amendment reflects the current department name based on previous machinery of government changes.
- Clause 88 makes an amendment to Table 1 to section 22 of the **Spent Convictions Act 2021**, to enable the disclosure of spent convictions to the Secretary to the Department of Jobs, Precincts and Regions in the performance of the function of licensing for low-THC cannabis authorities.

#### **Part 6—Amendment of Farm Debt Mediation Act 2011**

- Clause 89 sets out definitions of various terms that will be amended or inserted into section 3 of the **Farm Debt Mediation Act 2011**. In particular—
- *approved form* means a form approved by the Small Business Commission;
  - *request for mediation* means a notice given by a farmer under new sections 9(1)(a) or 9(1)(b), which provide for the circumstances in which a farmer may give notice to a creditor requesting mediation concerning farm debt;
  - the definitions of *Department* and *Secretary* are repealed as the administrative roles of the Department and Secretary in the **Farm Debt Mediation Act 2011**, apart from the transitional arrangements, have either been superseded by the Small Business Commission or removed by the Bill;

- the definition of *farming operation* has been amended to further include aquaculture, forestry and timber production activities, making the definition consistent with other jurisdictions, the remit of the Rural Financial Counselling Service, and the conventionally accepted understanding of agricultural practices;
- the definition of *hire purchase agreement* remains substantively the same, but has been substituted to have the term clearly defined in the **Farm Debt Mediation Act 2011**, as opposed to by reference to the definition in the **Duties Act 2000**.

Clause 90 amends the heading to Part 2 of the **Farm Debt Mediation Act 2011** from "Availability of mediation" to "Enforcement action and availability of mediation". This better describes the content of Part 2, as amended by the Bill, which sets out the processes and availability of mediation and enforcement actions under the **Farm Debt Mediation Act 2011**.

Clause 91 inserts new Division 1AA, containing new section 7A, after the heading to Part 2 of the **Farm Debt Mediation Act 2011**.

New section 7A(1) prohibits a creditor from taking 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.

New section 7A(2) provides that the prohibition on enforcement action does not invalidate any statutory enforcement notice or other process to fulfil a condition precedent to the taking of any enforcement action, but operates to prohibit the taking of the enforcement action itself, and the enforcement by a court or tribunal of any such notice or process.

New section 7A(3) provides that new section 7A(2) does not affect the continuance or conclusion of proceedings after the expiry of an exemption certificate authorised under section 16(6). Section 16(6) relates to the exercise or enforcement of any right of the creditor already taken or commenced while an exemption certificate is in force.

New section 7A(4) provides that 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 new section 8 and obtains a new exemption certificate.

Clause 92 substitutes sections 8 and 9 of the **Farm Debt Mediation Act 2011** with new sections 8 and 9. Broadly, existing sections 8 and 9 provide for the mediation process to be initiated between a farmer and creditor prior to enforcement action.

New section 8 provides that a creditor who intends to take enforcement action against a farmer in relation to a farm mortgage must give written notice, in the approved form, to the farmer, unless an exemption certificate is in force in respect of the farm mortgage. The written notice must state that the creditor intends to take enforcement action under the farm mortgage, mediation between the farmer and the creditor is available, the farmer may respond to the notice within 21 days by requesting mediation, and 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.

Existing section 8 of the **Farm Debt Mediation Act 2011** requires a creditor to give the farmer written notice in accordance with existing section 8(2) and the farmer's failure to respond to a section 8 notice within 21 days may constitute grounds for a creditor to commence enforcement action. It is possible, in some cases, that a farmer may not be aware of their right to mediation under **Farm Debt Mediation Act 2011**. Through the operation of new section 7A, inserted by clause 36, and reflected in new section 8 of the Bill, enforcement action cannot be taken unless an exemption certificate is issued. This change will ensure that farmers are made aware of their rights to mediation and provided reasonable opportunity to act on the mediation offer.

New section 9, which retains the substantive operation of existing section 9, provides for the circumstances in which a farmer may give a notice to a creditor requesting mediation concerning a farm debt, namely—

- where the creditor has given the farmer a notice under new section 8 in relation to the farm mortgage to which the debt relates; or
- where the creditor has not given the farmer a notice under new 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.

A farmer's request for mediation must be in the approved form and must be given within 21 days after the day on which the creditor gave the notice under new section 8 to the farmer.

- Clause 93 amends section 10 of the **Farm Debt Mediation Act 2011**, which provides for a creditor's ability to agree or refuse mediation. The amendments are consequential in nature and ensure that section 10 is consistent with other changes made by the Bill, including enabling the Small Business Commission's approval of forms for the purposes of the **Farm Debt Mediation Act 2011** and the removal of the Department and Secretary's administrative roles in the Act.
- Clause 94 repeals section 11 of the **Farm Debt Mediation Act 2011**, which requires the Department, where it receives notice that a creditor and a farmer have agreed to mediate, to refer the details of the parties to the Small Business Commission for mediation as soon as practicable. Section 11 is redundant given amendments to remove the Department's administrative role from the **Farm Debt Mediation Act 2011**.
- Clause 95 repeals section 12 of the **Farm Debt Mediation Act 2011**, which prohibits a creditor from taking enforcement action in respect of a farm mortgage where the farmer has requested mediation with the creditor, unless an exemption certificate issued under section 16 is in force. Section 12 is made redundant by new section 7A, which prohibits enforcement action by a creditor unless there is an exemption certificate in respect of the farm mortgage.
- Clause 96 amends section 13 of the **Farm Debt Mediation Act 2011**, which provides for a farmer's application to the Small Business Commission for a prohibition certificate to be issued. The amendments retain the substantive operation of section 13 while providing greater administrative flexibility by, instead of specifying the mandatory content in a farmer's application for a prohibition certificate in the **Farm Debt Mediation Act 2011**, enabling the Small Business Commission to determine the form for that application.
- Clause 97 amends section 14 of the **Farm Debt Mediation Act 2011**, which provides for the issue of a prohibition certificate. The amendments retain the substantive operation of section 14 while

clearly specifying the circumstances in which the Small Business Commission may refuse to issue a prohibition certificate.

- Clause 98 amends section 15 of the **Farm Debt Mediation Act 2011**, which provides for the application by a creditor for the issue of an exemption certificate. The amendments retain the substantive operation of section 15 while providing greater administrative flexibility by, instead of specifying the mandatory content in a creditor's application for an exemption certificate in the **Farm Debt Mediation Act 2011**, enabling the Small Business Commission to determine the form for that application.
- Clause 99 amends existing section 16 of the **Farm Debt Mediation Act 2011**, which provides for the issuance of an exemption certificate. The amendments retain the substantive operation of section 16 while making consequential changes to remove redundancies due to the insertion of new Division 1AA of Part 2 and by clearly specifying, where a farmer has refused or failed to mediate, the circumstances in which the Small Business Commission may refuse to grant an exemption certificate.
- Clause 100 amends section 18 of the **Farm Debt Mediation Act 2011**, which provides for the calculation of the period of operation of an exemption certificate, by—
- replacing the Department's role in the provision with the Small Business Commissioner to ensure consistency with other amended provisions; and
  - providing that, if the farmer has failed to respond to the creditor within 21 days after the creditor gave the farmer a notice under section 8, the period of operation for an exemption certificate starts on the date an exemption certificate is issued and ends on the third year of the last day of that 21 day period. Existing section 18 allows a farmer a period of 28 days to respond to the creditor. The change to a period of 21 days is consistent with other timeframes set out in the **Farm Debt Mediation Act 2011**, as well as timeframes in farm debt mediation schemes of other Australian jurisdictions.
- Clause 101 amends section 19 of the **Farm Debt Mediation Act 2011**, which provides for the presumption of a farmer's or creditor's refusal to mediate, by—

- replacing the Department's role in the provision with the Small Business Commissioner to ensure consistency with other amended provisions; and
- providing that there is a presumption of refusal to mediate where a farmer has failed to respond to the creditor within 21 days after the creditor has given the farmer a notice under section 8. Existing section 19 allows a farmer a period of 28 days to respond to the creditor. The change to a period of 21 days is consistent with other timeframes set out in the **Farm Debt Mediation Act 2011**, as well as timeframes in farm debt mediation schemes of other Australian jurisdictions.

Clause 102 amends section 20 of the **Farm Debt Mediation Act 2011**, which provides for the functions of the Small Business Commission under the Act, by—

- removing a reference to the Department's role in the facilitation of mediations to ensure consistency with other amended provisions; and
- enabling the Small Business Commission to approve forms for the purposes of the **Farm Debt Mediation Act 2011**; and
- ensuring that the Small Business Commission's ability to approve forms for the purposes of the **Farm Debt Mediation Act 2011** will not be subject to the Minister's control or direction.

Clause 103 substitutes section 22 of the **Farm Debt Mediation Act 2011** with new section 22. New section 22 requires the Small Business Commission to, as soon as practicable after receiving a notice under section 10(4), arrange for the farm debt dispute to which the notice relates to be the subject of mediation by a mediator.

Clause 104 amends section 23, which provides for the conduct of mediation and sets out who may represent a party to a mediation under the **Farm Debt Mediation Act 2011**. Subsection (3)(a) is amended so that the reference to Australian legal practitioner omits the words "(within the meaning of the **Legal Profession Act 2004**)". This amendment is necessary as the **Legal Profession Act 2004** has been repealed and "Australian legal practitioner" is defined in section 38 of the **Interpretation of Legislation Act 1984**.

Clause 105 amends section 32 of the **Farm Debt Mediation Act 2011**, which sets out the manner in which notices under the Act are to be given. The amendments retain the substantive operation of section 32 while making consequential amendments to ensure consistency with other amended provisions.

Clause 106 amends section 33 of the **Farm Debt Mediation Act 2011**, which provides for how a date notice or other document is taken to be given, by omitting "facsimile or some other form of" in paragraph (c) and referring more broadly to electronic communication. This amendment is consistent with section 32, as amended by clause 50 of the Bill, which also refers broadly to electronic communication, and better reflects the means of communication used by the Small Business Commission.

Clause 107 inserts a new section 38 in the **Farm Debt Mediation Act 2011** to provide transitional arrangements in respect of a farmer and creditor where a section 8 notice has been issued prior to the Bill coming into operation.

#### **Part 7—Amendment of Livestock Disease Control Act 1994**

Clause 108 amends section 3(1) of the **Livestock Disease Control Act 1994** by—

- inserting definitions for the terms *Department*, *registered beekeeper* and *registered brand*; and
- amending the definition of *Secretary* so that it means Secretary to the *Department* as defined by the definition inserted by this clause.

Clause 109 substitutes section 9 of the **Livestock Disease Control Act 1994**. Existing section 9 prohibits the dispatch, sale, transport, slaughter and processing of cattle or livestock or their carcasses unless the cattle, livestock or carcass is branded, tagged or identified in accordance with section 9A. New section 9 retains the substantive operation of existing section 9 while establishing the new offence of moving cattle, livestock or a carcass, from one property to another property with a different or no property identification code, without the cattle, livestock or carcass being branded, tagged or identified in accordance with section 9A and in the prescribed manner.

- Clause 110 amends section 9A of the **Livestock Disease Control Act 1994** which provides for the permanent identification of livestock. Subsection (1)(a) is amended so that the circumstances in which cattle or certain livestock must permanently be tagged, marked, branded or identified, refer to the circumstances set out in new sections 9(1), (2), (3), (4) (5) or (6). This is a consequential amendment resulting from the substitution of section 9 by clause 109 of the Bill.
- Clause 111 amends section 41B(3)(c) of the of the **Livestock Disease Control Act 1994** so that a declaration that offences apply to certain materials must be published on the Department's website. The amendment retains the Internet publication requirement in existing section 41B(3)(c), while ensuring that the Department referenced in the provision reflects current administrative arrangements (see the new definition of *Department* inserted by clause 108).
- Clause 112 substitutes section 42 of the **Livestock Disease Control Act 1994**. New subsection (1) defines various terms used throughout Division 2 of Part 4 of that Act, namely, *biosolids*, *exposed cattle or pigs*, *recycled water*, *sewage*, *sewage treatment products*, *sewerage district*, *trade waste* and *water corporation*. New subsection (2) enables the Minister to approve a standard of purification for sewage and sewage treatment products by Ministerial Order published in the Government Gazette. New subsection (3) provides that nothing in Division 2 of Part 4 of the Act applies to sewage and sewage treatment products that have been purified in accordance with a Ministerial Order made under new subsection (2).
- Clause 113 amends section 43 of the **Livestock Disease Control Act 1994** so that all antiquated references to "night-soil" are replaced with the modern terms "sewage treatment products" and all references to "sewerage authority" are replaced with "water corporation" to accord with language in the **Water Act 1989**. Subsection (7), which defines *recycled water*, has been repealed as that term will be defined in new section 42, inserted by clause 112 of the Bill.
- Clause 114 amends section 44 of the **Livestock Disease Control Act 1994** which makes it an offence to allow cattle, which have been allowed to graze on any land used by the sewerage authority in certain ways, to be removed from that land unless certain conditions are met. The amendments—

- replace references to "sewerage authority" with "water corporation" to accord with language in the **Water Act 1989**;
- replace the antiquated references to "night soil or sewage" with the modern terms "sewage or sewage treatment products";
- correct the reference to the scientific name "cysticercus bovis" with "*Cysticercus bovis*"; and
- substitute subsection (2) to retain the substantive notification requirement to the Secretary in relation to cattle grazing or being kept on land used in certain ways, but update antiquated terms to ensure consistency with other changes made by the Bill.

Clause 115 inserts new sections 44A and 44B after existing section 44 of the **Livestock Disease Control Act 1994**. New section 44A requires the owner of relevant land in relation to exposed cattle or pigs to notify the Secretary and enables the Secretary to disclose any information in that notification to the Environment Protection Authority or water corporation of that land's sewerage district where the information is relevant to the functions of those entities. New section 44B prohibits the owner of exposed cattle or pigs from selling exposed cattle or pigs unless there is approval granted by the Secretary.

Clause 116 amends section 48 of the **Livestock Disease Control Act 1994**, which provides for the registration of beekeepers, by:

- ensuring that the general licensing provisions in Division 1 of Part 7 apply to the registration of beekeepers; and
- exempting beekeeper registration requirements for cases in which a person is registered as a beekeeper under a corresponding provision of an Act from another State or Territory, has been keeping bees for less than 3 months, and has marked or branded all of the person's hives with the mark or brand issued in the State or Territory of that person's beekeeper registration.

Clause 117 repeals section 49A of the **Livestock Disease Control Act 1994** which enables the Secretary to cancel a beekeeper registration if a biennial fee is not paid in accordance with section 49. The

general licensing provisions in Division 1 of Part 7 will apply to the registration of beekeepers by virtue of clause 116 of the Bill. As section 100(1)(c) of Division 1 of Part 7 enables the Secretary to cancel or suspend a licence or registration on the basis of any relevant fees being unpaid, section 49A is no longer required.

Clause 118 amends section 60 of the **Livestock Disease Control Act 1994** to enable payment out of the Exotic Diseases Fund for 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 exotic disease. These expenses 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**.

Clause 119 amends section 67 of the **Livestock Disease Control Act 1994** to ensure that payments for the administration of provisions of that Act relating to bees include payments of—

- costs and expenses incurred in administering the Honey Bee Compensation and Industry Development Fund; and
- costs incurred in appointing persons to the Apicultural Industry Advisory Committee; and
- fees and allowances payable to members of the Apicultural Industry Advisory Committee; and
- costs incurred in the provision of secretarial support to the Apicultural Industry Advisory Committee.

These amendments permit expenditure from the Honey Bee Compensation and Industry Development Fund for common costs associated with the administration of the fund, such as the remuneration of members and costs of travel and accommodation.

Clause 120 amends section 70 of the **Livestock Disease Control Act 1994**, which provides for the establishment of the Apicultural Industry Advisory Committee. The amendments increase the number of members that may be appointed to the Committee by the Minister to a maximum of 9 members. The Minister's appointments must consider any recommendations of the Secretary and have regard to each appointee's experience in certain areas relevant to the functions of the Committee. The ability of a Committee member

to nominate another person to act in that member's place at all or any of the Committee meetings has been removed as it is inconsistent with the Bill's intention to ensure that there is a proper process for the selection of committee members. The amendments will ensure that candidates are carefully assessed against specific skill and experience criteria relevant to the role.

Clause 121 amends section 72 of the **Livestock Disease Control Act 1994** by ensuring that payments for the administration of provisions of that Act relating to cattle include payments of—

- costs and expenses incurred in administering the Cattle Compensation Fund; and
- costs incurred in appointing persons to the Cattle Compensation Advisory Committee; and
- fees and allowances payable to members of the Cattle Compensation Advisory Committee; and
- costs incurred in the provision of secretarial support to the Cattle Compensation Advisory Committee.

These amendments permit expenditure from the Cattle Compensation Fund for common costs associated with the administration of the fund, such as the remuneration of members and costs of travel and accommodation.

Clause 122 amends section 79 of the **Livestock Disease Control Act 1994**, which provides for the establishment of the Cattle Compensation Advisory Committee. The amendments increase the number of members that may be appointed to the Committee by the Minister to a maximum of 9 members. The Minister's appointments must consider any recommendations of the Secretary and have regard to each appointee's experience in certain areas relevant to the functions of the Committee. The ability of a Committee member to nominate another person to act in that member's place at all or any of the Committee meetings has been removed as it is inconsistent with the Bill's intention to ensure that there is a proper process for the selection of committee members. The amendments will ensure that candidates will be carefully assessed against specific skill and experience criteria relevant to the role.

Clause 123 amends section 79B of the **Livestock Disease Control Act 1994** by providing that payments for the administration of provisions of that Act relating to sheep and goats include payments of:

- costs and expenses incurred in administering the Sheep and Goat Compensation Fund; and
- costs incurred in appointing persons to the Sheep and Goat Compensation Advisory Committee; and
- fees and allowances payable to members of the Sheep and Goat Compensation Advisory Committee; and
- costs incurred in the provision of secretarial support to the Sheep and Goat Compensation Advisory Committee.

These amendments permit expenditure from the Sheep and Goat Compensation Fund for common costs associated with the administration of the fund, such as the remuneration of members and costs of travel and accommodation.

Clause 124 repeals sections 79HA and 79HB of the **Livestock Disease Control Act 1994**, which provide for the application for and granting of payment to interstate sheep and goat producers to recover any duty paid under the **Duties Act 2000** in respect of the sale of sheep or goat. During the 1990s and 2000s, the Sheep and Goat Compensation Fund was used to compensate Victorian farmers for losses associated with ovine Johne's disease, which was the subject of a national control program. Sheep and goat producers paid levies in their own states and territories to compensate for losses experienced by farmers due to impacts of ovine Johne's disease. Sections 79HA and 79HB of the **Livestock Disease Control Act 1994** ensure that interstate producers of sheep and goats do not pay twice for the same control program. As the national ovine Johne's disease control program has now ceased, sections 79HA and 79HB are no longer required.

Clause 125 amends section 79I of the **Livestock Disease Control Act 1994** to revise the appointment process for the Sheep and Goat Compensation Advisory Committee.

Subclause (1) substitutes section 79I(3) to increase the maximum number of Committee members that may be appointed by the Minister and establish new selection criteria for prospective

appointees. To ensure appointees are suitably qualified, new section 79I(3) enables the Minister to have regard to any recommendations of the Secretary and each candidate's expertise in one or more areas relevant to the functions of the Committee. This is consistent with the selection processes for other advisory committees under sections 70(3), 79(3) and 87(3) as substituted by this Bill.

Subclause (2) repeals section 79I(3A), (3B), (4), (5), (5A), (5B) and (5C) of the **Livestock Disease Control Act 1994** to remove restrictions on the pool of nominees that may be appointed to the Committee and ensure consistency with other amendments to the Act made by this Bill.

Clause 126 amends section 81 of the **Livestock Disease Control Act 1994** to ensure that the Minister may make payments from the Swine Compensation Fund for the administration of provisions of that Act relating to swine and for projects that benefit the swine industry in Victoria. The amendments ensure that payments made for the administration of provisions relating swine can include—

- costs and expenses incurred in administering the Swine Compensation Fund; and
- costs incurred in appointing persons to the Swine Industry Projects Advisory Committee; and
- fees and allowances payable to members of the Swine Industry Projects Advisory Committee; and
- costs incurred in the provision of secretarial support to the Swine Industry Projects Advisory Committee.

These amendments permit expenditure from the fund for important projects for the swine industry as well as common costs associated with the administration of the fund, such as the remuneration of members and costs of travel and accommodation.

Clause 127 amends section 87 of the **Livestock Disease Control Act 1994** to revise the appointment process for the Swine Industry Projects Advisory Committee.

Subclause (1) substitutes 87(3) to increase the maximum number of committee members that may be appointed by the Minister and establish new selection criteria for prospective appointees.

To ensure appointees are suitably qualified, new section 87(3) enables the Minister to have regard to any recommendations of the Secretary and each candidate's expertise in one or more areas relevant to the functions of the Committee. This is consistent with the selection processes for other advisory committees under sections 70(3), 79(3) and 79I(3) as amended by this Bill.

Subclause (2) repeals section 87(4) and (5) of the **Livestock Disease Control Act 1994** to remove restrictions on the pool of nominees that may be appointed to the Committee and ensure consistency with other amendments to the Act made by this Bill.

Clause 128 amends section 97(2)(b) of the **Livestock Disease Control Act 1994** to provide that, in addition to any information accompanying an application for a grant or renewal of a licence or registration under the Act, a person must also include copies of any prescribed records that the Secretary may require.

Clause 129 amends section 98(3) of the **Livestock Disease Control Act 1994** to permit the Secretary to vary or omit any conditions of a licence or registration and impose new conditions, limitations, or restrictions, at any time.

Clause 130 amends and inserts a note at the foot of section 99 of the **Livestock Disease Control Act 1994** to clarify that the provision does not apply to a beekeeper registration, which is to operate for a 2, rather than 3 year, term as provided by section 48(4A).

Clause 131 amends section 102 of the **Livestock Disease Control Act 1994**, which provides for delegations by the Minister.

Subclause (1) amends section 102(1) to expand the scope of delegation by enabling the Minister to delegate their powers under regulations made under the Act.

Subclause (2) substitutes section 102(2) to permit the Minister to delegate to the chief plant health officer a power under section 26 or 29 to extent that the power relates to bees. New section 102(2) also recognises the change of name of the Department, which will now be defined in section 3(1) of the Act (see clause 108).

Clause 132 amends section 103 of the **Livestock Disease Control Act 1994** to expand the scope of delegation by enabling the Secretary to delegate their powers under regulations made under the Act.

Clause 133 amends section 104 of the **Livestock Disease Control Act 1994** to permit fees to be levied for costs related to the objectives of the Act, or associated with the exercise of a power or performance of a function under the Act, the regulations or a legislative instrument made under the Act. This could include costs associated with travel, accommodation, or the use of hired equipment.

Clause 134 amends section 107A of the **Livestock Disease Control Act 1994** to ensure that the functions of the Secretary include the keeping of records required under the regulations, and the analysis and publication of information in accordance with, or required to be kept and maintained by, regulations made under the Act.

Clause 135 amends section 107B of the **Livestock Disease Control Act 1994**, which sets out the Secretary's record keeping obligations and the availability of information under the Act.

Subclause (1) inserts a new heading that better reflects the requirements relating to record-keeping and availability of information in the provision.

Subclause (2) provides for the following additional records and information that must be kept by the Secretary, namely—

- records required by the regulations in connection with the movement of livestock;
- records in connection with the tagging of livestock under section 9A;
- agreements entered into by the Secretary under section 17;
- contracts entered into by the Secretary under section 18;
- 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.

Subclause (3) substitutes sections 107B(2), (3), (4), (4A) and (4B).

New section 107B(2) expands the types of records kept under subsection (1) that may be made available to a relevant person, and the circumstances in which this may occur.

New section 107B(3) provides that records kept under subsection (1) may, in certain circumstances, be made available with written authority of the chief veterinary officer or the chief plant health officer of the Department (as the case requires). This amendment provides an expedited process of disclosure for records required for the purposes of emergency planning, preparation, response, or recovery of livestock disease.

New section 107B(4) permits the Secretary, the chief veterinary officer or the chief plant health officer to place any conditions on the use or disclosure of a record. This power is only exercisable by the Secretary under current section 107B(3).

New section 107B(4A) provides that if a record does not identify any person, body, property, animal, or premises, it may be made available to any person who applies for it in writing.

New section 107B(4B) provides that if a record identifies a person, written consent from that person is required before it can be made available.

Subclause (4) makes a minor substitution to section 107B(5) to replace the word "maintained" with "kept", and to ensure consistent language is used throughout section 107B.

Subclause (5) inserts new section 107B(6) to provide a definition of *relevant person* for the purposes of specifying which persons records may be made available to.

Clause 136 amends section 109 of the **Livestock Disease Control Act 1994**, which provides for the general powers of inspectors. The amendments empower an inspector to –

- require a person to produce, in any form or by any means, including by electronic communication, any document or other thing, and examine, make copies, extract from, and remove for a reasonably necessary period for the purpose of analysis, that document or other thing;
- 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 or at the land, vehicle, place or premises;

- 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.

Clause 137 inserts new section 115AB after section 115A of the **Livestock Disease Control Act 1994** to provide for the power to make a direction by removal notice in relation to the feeding of pigs.

New section 115AB enables an inspector, who has reasonable grounds to believe that section 41(1) of the **Livestock Disease Control Act 1994** has been, is being, or is about to be contravened, to direct a relevant person by written notice to remove, destroy, or dispose of material. The written notice must include information about the material to which the direction applies, timeframes for compliance with the direction, and the manner in which the direction must be carried out. If a relevant person cannot be found at or in the premises, place or vehicle where the inspector proposes to give the direction, the inspector may leave the notice in a prominent place at that location or give the notice to the relevant person by means of electronic communication. New section 115AB makes it an offence to contravene a direction given under that section.

Clause 138 substitutes section 125(3) of the **Livestock Disease Control Act 1994** which provides that inspectors must not dispose of hives bearing a registered brand unless there has been at least 7 days' notice given to the beekeeper. New section 125(3) retains the substantive operation of existing section 125(3) while ensuring that the application of the provision extends to hives bearing the mark or brand issued of other States and Territories.

Clause 139 makes consequential amendments to section 126(1) of the **Livestock Disease Control Act 1994** to reflect the new internal numbering of section 9 and prescribe the offences contained in new section 44(1) and 44(2) as infringeable offences.

Clause 140 amends section 132A of the **Livestock Disease Control Act 1994** to include a reference to section 9B(6) and therefore extend the time for commencing proceedings for an offence under that provision to 3 years.

- Clause 141 amends section 137A of the **Livestock Disease Control Act 1994**, which establishes the offence of making false or misleading statements. The amendments—
- ensure that the offence applies to the "providing", which is a more modern expression than "furnishing", of information that may be false or misleading;
  - expressly provide that the offence extends to information under the regulations; and
  - increase the maximum penalty for contravention from 10 penalty units to 60 penalty units.
- Clause 142 amends section 139(1) of the **Livestock Disease Control Act 1994** to provide for additional regulation-making powers, namely, powers for the creation and keeping of records under the Act and associated regulations, and the advertising or publishing of notices that contain property identification codes or other prescribed information. These new regulation-making powers expressly authorise record-keeping by beekeepers and the advertising of certain information.
- Clause 143 inserts new section 150 into the **Livestock Disease Control Act 1994** which provides for transitional arrangements to support the fair operation of the amendments to that Act.
- Clause 144 inserts new clauses 3A and 6A into Schedule 1 of the **Livestock Disease Control Act 1994**, which provides for the membership and procedure of committees.
- New clause 3A establishes the process of appointment of a committee chairperson by the Minister and provides that a chairperson appointment may be made in the same instrument that appoints the member. New clause 6A provides that the quorum of a committee is a majority of the members for the time being. New clauses 3A and 6A have been inserted in Schedule 1 as they are relevant to and apply to all committees established by the **Livestock Disease Control Act 1994**.

## Part 8—Amendment of Plant Biosecurity Act 2010

Clause 145 sets out amendments to existing definitions for section 3(1) of the **Plant Biosecurity Act 2010**, including the following—

- a new definition of *Department* to reflect machinery of government changes;
- an amended definition of *accredited person*;
- a new definition of *inspector* is substituted with *inspector* means a person appointed under section 61 or authorised under section 62 of that Act;
- a new definition of *plant health certificate*, which means a certificate—
  - issued by an inspector or inspection agent; or
  - issued by an officer of a department responsible for the agriculture of another State or Territory;
- a new definition of *plant health declaration*, which means a declaration—
  - issued by a person authorised under section 47A; or
  - issued by a person authorised under a corresponding law to issue a plant health declaration or equivalent;
- a new definition of *Secretary* to reflect machinery of government changes.

Clause 146 amends section 8(1C)(a)(ii) of the **Plant Biosecurity Act 2010** to insert new requirements for the importation of prescribed material, including requirements that may be determined by the Secretary and published on a website maintained by the Department.

Clause 147 amends the heading to section 10 of the **Plant Biosecurity Act 2010** to replace "prescribed material" with "plants and plant products".

Subclause (2) amends section 10(1)(a) of the **Plant Biosecurity Act 2010** to substitute "prescribed material" with "plant or plant product".

- Clause 148 amends section 11 of the **Plant Biosecurity Act 2010** to substitute "section 8(1C)(a)" with "section 8(1C)(b)(i)" and to substitute "Secretary." with "Secretary, if issued by a person accredited under section 48."
- Clause 149 amends section 12 of the **Plant Biosecurity Act 2010** to substitute "section 8(1C)(a)" with "section 8(1C)(b)(i)" and in paragraph (d) substitutes "Secretary." for "Secretary, if issued by an inspector or inspection agent."
- Clause 150 amends section 13 of the **Plant Biosecurity Act 2010** to substitute "section 8(1C)(a)" for "section 8(1C)(b)(i)" and to substitute "Secretary." with "Secretary, if issued by a person authorised under section 47A."
- Clause 151 inserts at the end of section 14 of the **Plant Biosecurity Act 2010** a provision that provides that mere transportation into Victoria on behalf of another person of any plant or plant product from a prescribed State or Territory does not mean that the person transporting has committed an offence against section 10 of that Act.
- Clause 152 amends section 17(4) of the **Plant Biosecurity Act 2010** to substitute "Governor" with "Governor in Council".
- Clause 153 amends section 18 of the **Plant Biosecurity Act 2010** to provide that the penalty of 60 penalty units for the existing offence applies to a natural person and inserts an additional penalty provision of 300 penalty units which applies to a body corporate.
- Subclause (2) inserts a new offence into section 18 of the **Plant Biosecurity Act 2010** to prohibit the sale of any plant or plant product, other than seeds, that is affected by any disease or pest.
- Clause 154 amends section 36(1) of the **Plant Biosecurity Act 2010** to substitute "but outside Victoria" with "(whether or not it exists in Victoria)".
- Clause 155 amends the heading to Part 5 of the **Plant Biosecurity Act 2010** to insert ", authorisation" after "**agreements**".
- Clause 156 inserts a new section 47A of the **Plant and Biosecurity Act 2010** after section 47, which provides that the Secretary may authorise persons to issue plant health declarations for any plant, plant product, plant vector, used equipment, used package, earth

material or beehive that is grown, produced, packed, treated or tested in Victoria.

Clause 157 amends section 48(1) of the **Plant Biosecurity Act 2010** to insert "plant vector," after "plant product," and substitutes "used package or earth material" with "used package, earth material or beehive".

Clause 158 substitutes the whole of section 49(3) of the **Plant Biosecurity Act 2010** to provide that unless authorised to do so by the Secretary in writing a person must not access the register of accredited persons kept by the Secretary.

Clause 159 substitutes section 97(a) of the **Plant Biosecurity Act 2010** in order to vary the arrangements for an inspector to give notice of the detention or seizure of any plants or plant products, including a statement of reasons for the detention or seizure. The new arrangement will be that notice must be given to 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 otherwise to the person from whom the plant or plant product was seized or detained.

The clause also substitutes paragraph (b) to provide that, if an inspector detains or seizes any plants or plant products under section 96(c), the inspector must take or send a sample of the plant or plant products, 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.

Clause 160 inserts a new section 133A of the **Plant and Biosecurity Act 2010**, which provides limitations on a person who is not authorised under section 47A of that Act. The new section 133A provides that the unauthorised person must not issue a plant health declaration or use, for the purposes of that Act, anything that purports to be a plant health declaration. The penalty for this offence is 60 penalty units for a natural person and 300 penalty units for a body corporate. Under the new section 133A, subsection (2) provides that the offence in subsection (1) does not apply to a person authorised under a corresponding law to issue a plant health declaration or equivalent.

Clause 161 substitutes section 134 of the **Plant Biosecurity Act 2010** to provide that a person must not knowingly include a false statement or 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. The penalty for this offence is 60 penalty units for a natural person and 300 penalty units for a body corporate.

Subsection (2) of the substituted section 134 provides that a person must not include a false statement or 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. The penalty for this offence is 10 penalty units for a natural person and 60 penalty units for a body corporate.

Clause 162 amends section 135(1)(b) of the **Plant Biosecurity Act 2010** to substitute "make" with "issue".

Clause 163 amends section 140 of the **Plant Biosecurity Act 2010** to remove obsolete references to the Department of Environment and Primary Industries. The substituted section 140(2) requires the Secretary to ensure that forms approved under subsection (1) are made available in any manner required to support the administration of that Act.

Clause 164 amends section 141(1)(c) of the **Plant Biosecurity Act 2010** to allow for the regulations made under that Act to include authorising inspectors to impose fees and charges of such amounts or rates as the Minister may determine for—

- inspecting plants, plant products, plant vectors, used packages, used equipment, beehives or land; or
- supervising the treatment of any plant, plant product, plant vector, used package, used equipment, earth material or beehive; or
- supervising the destruction or disposal of any plant, plant product, plant vector, plant refuse, used package, used equipment, earth material or beehive; or
- the preparation of a compliance agreement and ensuring that the agreement is complied with.

## **Part 9—Amendment of Rural Assistance Schemes Act 2016**

Clause 165 amends section 3 of the **Rural Assistance Schemes Act 2016** to amend the definition of *Secretary* to replace an obsolete reference to the Department of Economic Development, Jobs, Transport and Resources with the Department of Jobs, Precincts and Regions. The effect of this amendment is to reflect the current department name and does not change the meaning or effect of the definition.

Clause 166 amends section 11 of the **Rural Assistance Schemes Act 2016**, which provides for the Rural Assistance Commissioner by instrument to delegate any power, duty or function of the Rural Assistance Commissioner.

Subclause (1) amends section 11(1) to replace an obsolete reference to the Department of Economic Development, Jobs, Transport and Resources with the Department of Jobs, Precincts and Regions. The effect of this amendment is to reflect the current department name and does not change the meaning or effect of the section.

Subclause (2) amends section 11(2) to replace an obsolete reference to the Department of Economic Development, Jobs, Transport and Resources with the Department of Jobs, Precincts and Regions. The effect of this amendment has the same effect and meaning as subclause (1).

Subclause (3) substitutes section 11(2)(b) of the **Rural Assistance Schemes Act 2016** with new section 11(2)(b).

New section 11(2)(b) of the **Rural Assistance Schemes Act 2016** provides that the Minister administering the other Department may approve the delegation or, if more than one Minister is responsible for that department, the Minister who is responsible for the relevant part of the other Department having regard to the power, duty or function that is proposed to be delegated may approve the delegation. The effect of this section is to provide certainty for which Minister administering the other Department may approve the delegation, and to ensure that the delegation reflects the relevant delivery responsibilities of the Department.

Clause 167 amends section 13(2) of the **Rural Assistance Schemes Act 2016**, which provides for the appointment and eligibility for reappointment of the Member, in circumstances where the Member is not a public service employee.

Subclause (1) amends section 13(2)(a) by omitting the phrase "on a full-time basis and" removes these words of limitation. The amendment ensures the power to make an appointment may include a range of terms that are efficient and flexible and not limited to a full time arrangement.

Subclause (2) amends section 13(2)(b) by replacing "re-appointment" with "reappointment" to correct a typographical error.

#### **Part 10—Amendment of Veterinary Practice Act 1997**

Clause 168 inserts a new definition into section 3(1) of the **Veterinary Practice Act 1997** and amends some existing definitions, including the following—

- ***approved person*** is defined as a person approved under new section 3C of the **Veterinary Practice Act 1997**. Clause 169 inserts new section 3C, which will enable the Governor in Council to approve a person who is not a member of the Veterinary Practitioners Registration Board (the **Board**) to be on a subcommittee or panel to investigate conduct of a veterinary practitioner.
- paragraph (h) of the definition of ***unprofessional conduct*** is amended to exclude from the failure by a veterinary practitioner to comply with a condition etc. a failure to comply with a condition of being supervised if the supervisor is changed or unable to continue supervising the veterinary practitioner. A note is inserted at the foot of that definition which refers to new section 7AA of the **Veterinary Practice Act 1997**, inserted by clause 171, regarding 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;

- the definition of *registered veterinary practitioner* is amended to include a person whose name has been restored to the register under section 13 of the **Veterinary Practice Act 1997**;
- the definition of *Secretary* is amended to reflect a machinery of government change.

Clause 169 inserts a new section 3C of the **Veterinary Practice Act 1997** to permit the Governor in Council on the recommendation of the Minister to approve a non-Board member as an approved person for a period not exceeding 3 years, for the purposes of sections 21(3)(c), 35(2) and 42(2) of that Act. Those sections respectively concern the constitution of a sub-committee to conduct a preliminary investigation into a complaint, a panel for an informal hearing, and a hearing panel for a formal hearing.

Clause 170 amends section 7(1)(b) of the **Veterinary Practice Act 1997** to permit the Board to grant or refuse to grant specific registration for a veterinary practitioner 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.

Subclause (2) amends section 7(2) of the **Veterinary Practice Act 1997** to replace the requirement for the period of specific registration to not exceed 12 months, with a requirement that it be between 12 and 36 months.

Clause 171 inserts new section 7AA into the **Veterinary Practice Act 1997**, to set out a process for cancellation of specific registration if a veterinary practitioner is unable to comply with a condition imposed on the registration. This process includes a show cause process and ability to seek a review of the decision at VCAT, so that an affected veterinary practitioner has the opportunity to be heard.

New section 7AA(1) provides that the Board must give written notice to a veterinary practitioner in accordance with subsection (2) if the veterinary practitioner voluntarily notifies the Board or the Board becomes aware of the veterinary practitioner's inability to comply with a condition imposed on the registration.

New section 7AA(2) sets out what a notice must contain, including a requirement that the registered veterinary practitioner show sufficient cause why the specific registration should not be cancelled for non-compliance with the condition, and that the practitioner show sufficient cause within the period of 10 business days after being given the notice.

New section 7AA(3) provides that the Board may cancel the specific registration if the veterinary practitioner fails to show sufficient cause within the notice period as to why their registration should not be cancelled.

New section 7AA(4) requires the Board to provide a notice to a veterinary practitioner if the Board cancels specific registration under subsection (3). That notice must include the date on which the cancellation of the registration comes into effect, which must not be earlier than the date the practitioner receives the notice, and a statement that the veterinary practitioner may apply to VCAT for a review of the decision to cancel the registration.

New section 7AA(5) defines *condition imposed on a specific registration* to include a limitation or restriction imposed on that specific registration.

Clause 172 Subclause (1) amends section 11(1) of the **Veterinary Practice Act 1997**, to provide that a registration of a veterinary practitioner that is not specific will end at an earlier point than the end of the financial year in which it was granted or renewed if the registration is earlier cancelled or surrendered under that Act.

Subclause (2) amends section 11(2) of the **Veterinary Practice Act 1997**, to provide that endorsement of the registration of a veterinary practitioner as a specialist practitioner will continue in force for the period of the registration, unless it is earlier cancelled or surrendered under that Act.

Clause 173 amends section 12(3) of the **Veterinary Practice Act 1997**, to provide that the removal of a person's registration must occur in accordance with new section 16A of that Act, inserted by clause 175.

Clause 174 inserts new section 14A into the **Veterinary Practice Act 1997**, to permit a registered veterinary practitioner to surrender the practitioner's registration or an endorsement on a general registration.

Clause 175 inserts new section 16A into the **Veterinary Practice Act 1997**, to set out when the Board may remove persons from the register.

Subclause (1) provides that the Board may remove the name and particulars of a person whose registration has been expired, cancelled or surrendered as soon as possible after that expiry, cancellation, or surrender.

Subclause (2) provides that the Board may remove the particulars of the endorsement on a general registration from the register if that endorsement has been cancelled or surrendered as soon as possible after the cancellation or surrender.

Clause 176 amends section 17(3) of the **Veterinary Practice Act 1997**, to use gender neutral language with regards to the returning to the Board by a veterinary practitioner of a certificate of registration and to include returning the certificate of endorsement if under this Part there has been suspension or cancellation of that endorsement.

Clause 177 substitutes section 21(3)(c) of the **Veterinary Practice Act 1997**, to provide that the sub-committee to which the Board may delegate its power to conduct a preliminary investigation into a complaint (other than a power to make determinations) consists of one Board member, and two other persons who may be either Board members or approved by the Governor in Council under new section 3C of that Act.

Clause 178 amends section 24 of the **Veterinary Practice Act 1997**, to provide alternatives to suspension of a person's registration 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 welfare of animals will be endangered.

Subclause (1) substitutes the heading to section 24.

Subclause (2) substitutes section 24(1) and (1A) for current section 24(1). Substituted section 24(1) provides that section 24 applies if the Board has made a determination regarding the professional conduct of a registered veterinary practitioner, to conduct a preliminary investigation into a complaint or to conduct a formal or informal hearing. New subsection (1A) provides that the Board may, as an alternative to suspending registration, enter into a written agreement with a practitioner to impose a condition, limitation or restriction on their registration until an investigation or hearing is complete, 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 health or safety of animals. The Board will continue to have the power to suspend registration until the completion of an investigation or hearing if the Board is of the opinion that there is a serious risk that the health and safety of the public or the health and welfare of animals would be endangered.

Subclause (3) substitutes a cross reference in section 24(2) of the **Veterinary Practice Act 1997** to reflect the insertion of new section 24(1A) of that Act.

Subclause (4) amends section 24(3) of the **Veterinary Practice Act 1997**, which requires the Board to revoke a suspension of a veterinary practitioner's registration in certain circumstances, so that any revocation is done before any investigation or hearing is completed and to change the cross-reference to new section 24(1A) under which a suspension may be made.

Subclause (5) inserts new sections 24(3A) and (3B) into the **Veterinary Practice Act 1997**. New section 24(3A) permits the Board to vary a condition, limitation or restriction on a person's registration with the person's agreement before an investigation or hearing into the matter is complete. New section 24(3B) provides that any condition imposed under new section 24(1A)(a) is revoked, if the Board determines at a formal hearing to impose a condition, limitation or restriction on a person's registration under section 45(2)(f) of the **Veterinary Practice Act 1997**, on the day of the determination.

Subclause (6) substitutes section 24(4) of the **Veterinary Practice Act 1997** to require the Board to immediately notify a person of the revocation of any suspension of, or condition, restriction or limitation on, the person's registration.

Clause 179 amends section 26A of the **Veterinary Practice Act 1997**, to provide that the Board may place conditions, limitations or restrictions on a registration as an alternative to suspending registration on commencement of a preliminary investigation.

Subclause (1) substitutes the heading to section 26A.

Subclause (2) substitutes for section 26A(1) new section 26(1) and (1A). Substituted section 26A(1) provides that the section applies if the Board has appointed a person to conduct a preliminary investigation regarding whether the ability of a registered veterinary practitioner to practise may be affected.

New section 26A(1A) provides that the Board may, as an alternative to suspending registration, enter into a written agreement with a practitioner to impose a condition, limitation or restriction on their registration until a preliminary investigation is complete, 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 health or safety of animals. The Board will continue to have the power to suspend registration until the completion of a preliminary investigation if the Board is of the opinion that there is a serious risk that the health and safety of the public or the health and welfare of animals would be endangered.

Subclause (3) substitutes a cross reference in section 26A(2) of the **Veterinary Practice Act 1997** to reflect the insertion of new section 26A(1A) of that Act.

Subclause (4) inserts new section 26A(7A), (7B) and (7C) into the **Veterinary Practice Act 1997**. New section 26A(7A) permits the Board to vary a condition, limitation or restriction on a person's registration with the person's agreement, or to revoke such a condition, limitation or restriction, before an investigation or hearing into the matter is complete. New section 26A(7B) provides that a condition, limitation or restriction on registration under new section 26A(1A)(a) is revoked on the day of an agreement between the practitioner and the Board, made under section 29 following a preliminary investigation, or under section 31 regarding a practitioner's request for a condition, limitation or restriction on their own registration. New section 26A(7C) provides that any condition imposed under new section 26A(1A)(a) is revoked, if the Board determines at a formal hearing to impose a condition, limitation or restriction on a person's registration under section 46(2)(a) of the **Veterinary Practice Act 1997**, on the day of the determination.

Subclause (5) substitutes section 26A(10) of the **Veterinary Practice Act 1997** to require the Board to immediately notify a person of the revocation of any suspension of, or condition, restriction or limitation on, the person's registration.

Clause 180 subclause (1) substitutes section 35(2) of the **Veterinary Practice Act 1997** to permit the President or Deputy President of the Board to appoint a person approved by the Governor in Council under new section 3C of that Act to be a member of a panel for an informal hearing in certain circumstances.

Subclause (2) repeals section 35(4) of the **Veterinary Practice Act 1997**, which is no longer required due to the insertion of new section 3C of that Act.

Clause 181 substitutes section 42(2) of the **Veterinary Practice Act 1997**, to permit the President or Deputy President of the Board to appoint a person approved by the Governor in Council under new section 3C of that Act to be a member of a panel for a formal hearing in certain circumstances.

Clause 182 repeals section 42(4) of the **Veterinary Practice Act 1997**, which is no longer required due to the insertion of new section 3C of that Act.

Clause 183 inserts new section 47A into the **Veterinary Practice Act 1997**, to set out when conferences, meetings or hearings may be held by means of an audio link or an audio visual link.

New section 47A(1) provides that a conference, meeting or hearing may be held by remote means if holding it by those means is the only way to comply with any legal requirements, or if a person required to attend that conference, meeting or hearing agrees that it may be held by remote means.

New section 47A(2) provides that a person may agree to hold a conference, meeting or hearing by means of electronic communication.

Clause 184 substitutes section 53 of the **Veterinary Practice Act 1997**, to simplify the offences set out in that section.

Subsection (1) provides that it is an offence to publish or broadcast, or cause to do so, a report of a formal hearing which would enable a complainant to be identified unless the complainant has consented to the publication or broadcast before its occurrence.

Subsection (2) is a similar offence, regarding the publication or broadcast of a report of a formal hearing which would enable the identification of a witness unless the witness has consented to the publication or broadcast prior to its occurrence.

The penalty for both offences will be 60 penalty units, consistent with the current provision, and the penalty for a body corporate will be increased from 100 penalty units to 300 penalty units.

Clause 185 amends section 55 of the **Veterinary Practice Act 1997**, to clarify the circumstances in which a person may apply to VCAT for review of a decision.

Subclause (1) amends section 55(1)(a), to clarify that it is the person whose application for registration, endorsement or renewal was refused who may apply for review of that decision.

Subclause (2) inserts two new types of decisions for which review may be sought—

- a decision of the Board to impose, vary or revoke a condition, limitation or restriction on the person's registration as a veterinary practitioner; and
- a decision of the Board to refuse to impose, vary or revoke such a condition, limitation or restriction.

Subclause (3) amends section 55(1)(c), to clarify that it is the person whose registration has been suspended in the circumstances set out in that section who may seek review of that decision.

Subclause (4) provides that VCAT review may be sought of a decision of the Board to cancel specific registration of a person under new section 7AA.

Subclause (5) amends section 55(1)(d) to clarify that a person may seek review of a finding or determination made at a formal hearing under Part 3 of the **Veterinary Practice Act 1997** in relation to the person.

Clause 186 amends section 57 of the **Veterinary Practice Act 1997** to simplify the offences set out in that section. The offences set out in subsections (1) to (5B) concern the following conduct—

- a person who is not a registered veterinary practitioner suggesting or claiming that the person is registered, or qualified to practise, under the **Veterinary Practice Act 1997** or is carrying out acts that must be carried out by a registered veterinary practitioner under that Act;
- a registered veterinary practitioner whose registration is specific suggesting that the registration is not specific or that they hold general registration;

- a registered veterinary practitioner whose registration is subject to a condition, limitation or restriction suggesting that the person is not subject to the condition, limitation or restriction;
- a person claiming to be, or using the title of, registered veterinary specialist with an endorsement, if the person is a not a registered veterinary specialist;
- a person claiming or using the title of , or that they are qualified to practise as, a registered veterinary specialist with respect to a branch of veterinary surgery or veterinary medicine when they do not hold that registration;

Subclause (6) substitutes a penalty for the offence of a body corporate holding out that another person is registered under the **Veterinary Practice Act 1997 Act** knowing that the other person is not so registered. The penalty will be 100 penalty units for a natural person, and 300 penalty units for a body corporate.

Clause 187 substitutes section 58 of the **Veterinary Practice Act 1997** to simplify offences regarding fraud and forgery.

New section 58(1) sets out an offence for obtaining registration under the **Veterinary Practice Act 1997** involving fraudulent conduct or by false representation or declaration, with a penalty of 100 penalty units.

New section 58(2) sets out an offence for procuring a person to be registered under that Act, by fraudulent conduct or false representation. The penalty will be 100 penalty units for a natural person, and 300 penalty units for a body corporate.

New section 58(3) sets out an offence for forging, counterfeiting or altering a certificate of registration, or degree, diploma or other evidence of qualifications for registration under the **Veterinary Practice Act 1997**. The penalty will be 100 penalty units for a natural person, and 300 penalty units for a body corporate.

Clause 188 substitutes section 63(2)(c) of the **Veterinary Practice Act 1997** to provide that one person appointed to the Board must be a registered veterinary practitioner with experience in education or continuing professional development of veterinary practitioners.

This will replace the requirement for a Board member to be employed by the University of Melbourne.

Clause 189 amends section 66(1) of the **Veterinary Practice Act 1997** to provide that the President and Deputy President of the Board do not need to be registered veterinary practitioners.

Clause 190 amends section 72 of the **Veterinary Practice Act 1997** to clarify the processes for approving methods of communication for the Board and participating in a meeting.

Subclause (1) amends section 72(1) to provide that the Deputy President, in addition to the President may approve a method of communication for the purposes of a meeting, provided that at least two thirds of the members agree.

Subclause (2) inserts new section 72(1A), to provide that the agreement by members of the Board under section 72(1) regarding the holding of a meeting by a particular means of communication may be made by electronic communication.

Subclause (3) amends section 72(2) to use gender neutral language regarding the participation of a person at a meeting even if they are not physically present.

Subclause (4) substitutes section 72(3) of the **Veterinary Practice Act 1997** to provide that this section has relevance with regards to a meeting or part of a meeting conducted by the Board in pursuit of its functions under this Act.

Clause 191 substitutes section 77 of the **Veterinary Practice Act 1997**, to modernise provisions regarding confidentiality of information and clearly specify the range of circumstances in which information may or may not be disclosed.

New section 77(1) imposes a duty on a person who is or has been a member of the Board or staff of the Board to not, directly or indirectly make a record of or disclose or communicate to a person information obtained in the course of the person's functions unless—

- the recording, disclosure or communication is for a purpose or circumstance listed in new section 77(2);
- if the disclosure or communication is to a **relevant person** defined in new section 77(3), the person disclosing or communicating information is satisfied

that the privacy of any person to whom the information relates will be protected and the disclosure is necessary to enable the relevant person to perform their functions.

New section 77(2) sets out the purposes or circumstances for which information may be recorded, disclosed or communicated under section 77(1).

New section 77(3) defines *relevant person* for the purposes of new section 77.

Clause 192 amends section 86 of the **Veterinary Practice Act 1997** to provide that the Board may fix fees for specific registration as a veterinary practitioner for a period of between 12 and 36 months, and may amend or vary the fee at the end of that period.

Clause 193 inserts new section 98 into the **Veterinary Practice Act 1997**, to provide for transitional arrangements consequent to the commencement of provisions of this Bill.

#### **Part 11—Amendment of Wildlife Act 1975**

Clause 194 amends section 58C(1A)(a)(i) of the **Wildlife Act 1975** to replace the current reference to "game birds" with "game that is waterfowl". The amendment ensures that a person referred to in that section must have a game licence that requires the person to have passed the waterfowl identification test in accordance with the regulations.

Clause 195 amends section 18(7) of the **Wildlife Act 1975** to rectify a typographical error in the definition of *Marine and Coastal Strategy* by substituting "2018;" with "2018."

#### **Part 12—Amendment of Meat Industry Act 1993**

Clause 196 sets out amendments to existing definitions and new definitions for section 3(1) of the **Meat Industry Act 1993**, including the following—

- new definitions of *game meat* and *poultry meat*, which are required to support the operation of the new offences and requirements introduced by the Bill to differentiate between meat from different consumable animals;

- new definitions of *field depot* and *harvest vehicle*, which are types of game processing facilities, that are required to support the operation of a new offence introduced by the Bill to differentiate between different game processing facilities;
- amended definitions of *chief veterinary officer* and *Secretary*, to replace obsolete references to the Department of Environment and Primary Industries and to reflect machinery of government changes;
- a substituted definition of *farm*, meaning land that is used for the primary production of animals, to omit references to the size of the land or the area in which the land is located and to simplify the definition by referring only to what the land is used for.

Subclause (2) repeals section 3(1A) of the **Meat Industry Act 1993**. The effect of this repeal is to remove an obsolete interpretation aid concerning future machinery of government changes, which is no longer required due to the amended definitions of *chief veterinary officer* and *Secretary*.

Clause 197 amends section 5 of the **Meat Industry Act 1993** to update the particular cases to which the **Meat Industry Act 1993** does not apply and to make minor and technical amendments.

Subclause (1) amends section 5(1) of the **Meat Industry Act 1993** to—

- repeal paragraph (a)(iv), which exempted meat sealed in an airtight container and which is in a retail shop from the application of that Act, to enable the insertion of new paragraphs (d) and (e) for specific circumstances in which meat sealed in an airtight container in a retail shop is exempted from the application of that Act; and
- amend paragraph (b)(iv) to correct a minor technical error; and
- amend paragraph (c) to provide for an additional paragraph to be inserted.

Subclause (1)(d) inserts a new paragraph (d) into section 5(1) of the **Meat Industry Act 1993** to provide that the sale of meat for human consumption in impermeable and hermetically sealed

packaging is exempt from the application of that Act if all the following circumstances are met—

- the processing, packaging and labelling of the packaged meat occurs at licenced meat processing facilities or places licensed or authorised for that purpose in accordance with the laws of another State or a Territory;
- the meat has not been and is not intended to be repackaged before retail sale;
- the sale of the packaged meat is direct to the public or by a business that sells meat directly to the public, provided that the sale by the business is direct to the public or to another business that will sell the packaged meat to the public.

Subclause (1)(e) inserts a new paragraph (e) into section 5(1) of the **Meat Industry Act 1993** to provide that the handling, storage or transport of meat for human consumption in impermeable and hermetically sealed packaging is exempt from the application of that Act if all the following circumstances are met—

- the processing, packaging and labelling of the packaged meat occurs at licenced meat processing facilities or places licensed or authorised for that purpose in accordance with the laws of another State or a Territory;
- the meat has not been and is not intended to be repackaged before retail sale;
- the handling, storage or transport is incidental to the sale of packaged meat directly to the public or the sale of packaged meat by a business that sells meat directly to the public, provided that the sale by the business is direct to the public or to another business that will sell the packaged meat to the public.

Subclause (2) amends section 5(2) of the **Meat Industry Act 1993** to insert the phrase "or the regulations" to follow references to "this Act". The effect of this amendment is to allow for the Minister to exempt a class of licensee or a class of meat processing facility from any provisions of the regulations made under that Act as well as any provisions of that Act.

Clause 198 amends section 30(6) of the **Meat Industry Act 1993** to replace an obsolete reference to the Department of Environment and

Primary Industries and to reflect machinery of government changes.

Clause 199 substitutes section 34 of the **Meat Industry Act 1993** to insert new offences for the sale or disposal of certain meat for human consumption.

New subsection (1) creates an offence for a person to sell or dispose of meat for human consumption unless all the following circumstances are met—

- the meat is from a consumable animal;
- the animal is slaughtered and processed at a meat processing facility (or facilities) licensed for that purpose in either Victoria or in accordance with the laws of another State or a Territory;
- the meat has been inspected and branded in accordance with that Act and the regulations or certified as fit for human consumption in accordance with the laws of another State or a Territory.

New subsection (1) does not apply to poultry meat, game meat or meat to which an exemption Order under section 35 of the **Meat Industry Act 1993** applies. New subsection (1) also provides for a penalty in relation to the offence and imposes an increased penalty or imprisonment, or both, if a person is guilty of the offence on subsequent occasions.

New subsection (2) creates an offence for a person to sell or dispose of poultry meat for human consumption unless that poultry meat has been slaughtered and processed at a meat processing facility (or facilities) licensed for that purpose in Victoria or in accordance with the laws of another State or a Territory and, if it was brought into Victoria after slaughter or processing, the poultry meat has been certified as fit for human consumption. New subsection (2) also provides for a penalty in relation to the offence and imposes an increased penalty or imprisonment, or both, if a person is guilty of the offence on subsequent occasions.

New subsection (3) creates an offence for a person to sell game meat for human consumption unless that game meat has been processed at a meat processing facility (or facilities) licensed for that purpose in Victoria or in accordance with the laws of another

State or a Territory and, if it was brought into Victoria after processing, the game meat has been certified as fit for human consumption. New subsection (3) also provides for a penalty in relation to the offence and imposes an increased penalty or imprisonment, or both, if a person is guilty of the offence on subsequent occasions.

New subsection (4) creates an offence for a person to dispose of game meat for human consumption unless that game meat has been processed at a meat processing facility (or facilities) licensed for that purpose in Victoria or in accordance with the laws of another State or a Territory or at a meat processing facility that solely processes game meat not intended for sale. New subsection (4) also provides for a penalty in relation to the offence and imposes an increased penalty or imprisonment, or both, if a person is guilty of the offence on subsequent occasions.

Clause 200 amends section 35 of the **Meat Industry Act 1993** to correct minor technical errors. Subclause (1) amends the penalty at the foot of section 35(6) by substituting "Second or subsequent" with "Subsequent". The effect of this substitution is to correct the unnecessary use of "Second or", as a second offence is already captured by the use of "Subsequent", and to ensure consistency with other offences in that Act.

Subclause (2) amends section 35(7) to omit the phrase "meat from" in relation to the slaughter of a consumable animal for human consumption. This corrects a misuse of the phrase "meat from", as it is the slaughter of the consumable animal, rather than the meat from that animal, that is intended to be captured by the offence.

Clause 201 amends section 37A(3)(b) of the **Meat Industry Act 1993** to replace an obsolete reference to the Australian Quarantine and Inspection Service of the Department of Agriculture, Fisheries and Forestry with a reference to the Department of Agriculture, Water and the Environment. This amendment reflects machinery of government changes that have been made by the Commonwealth.

Clause 202 inserts a new section 37B into the **Meat Industry Act 1993** to prohibit the sale or disposal of meat for consumption as pet food in certain circumstances. New section 37B(1) creates an offence for the sale or disposal of meat processed in Victoria for consumption as pet food unless—

- the meat has been inspected in accordance with that Act and any regulations made under that Act; and
- any procedures that the regulations require to be complied with before the meat can be sold or disposed of have not been complied with.

New section 37B(1) also provides for a penalty in relation to the offence and imposes an increased penalty or imprisonment, or both, if a person is guilty of the offence on subsequent occasions. New section 37B(2) provides that subsection (1) does not apply to the disposal of game meat processed at a meat processing facility that solely processes game meat not intended for sale.

New section 37B(3) creates an offence for the sale or disposal of meat that has been brought into Victoria for consumption as pet food if the meat has not been certified as fit for consumption as pet food in accordance with the laws of another State or a Territory. New section 37B(3) also provides for a penalty in relation to the offence and imposes an increased penalty or imprisonment, or both, if a person is guilty of the offence on subsequent occasions. New section 37B(4) provides that subsection (3) does not apply to the disposal of game meat processed outside Victoria at a place that solely processes game meat not intended for sale.

Clause 203 amends section 38(1)(a) of the **Meat Industry Act 1993** to omit the phrase "other than game". The effect of this amendment is to remove a duplication, as subsection (2) already provides that section 38 does not apply to the slaughter of game.

Clause 204 amends section 39 of the **Meat Industry Act 1993** in relation to branding and certification requirements for the supply of meat to and the removal of meat from meat processing facilities. This clause also creates a new offence in relation to the removal of game meat from game processing facilities.

Subclause (1) substitutes section 39(1)(a) of the **Meat Industry Act 1993** to provide requirements in relation to branding and certification for the supply of meat to and the removal of meat from a meat processing facility. The requirements are that meat that is a carcass (or comes from a carcass) must be—

- branded as fit for human consumption in accordance with the regulations made under that Act; or

- certified as fit for human consumption in accordance with the laws of another State or a Territory.

Subclause (2) inserts a new subsection (1A) which provides that subsection (1) does not apply to game meat or poultry meat.

Subclause (2) also inserts a new subsection (1B) which provides requirements for the removal of game meat from a game processing facility that is not a field depot or a harvest vehicle. The requirements are that the meat is—

- branded as fit for human consumption in accordance with the regulations made under that Act; or
- certified as fit for human consumption in accordance with the laws of another State or a Territory; or
- made unusable for human consumption in accordance with the requirements of the regulations made under that Act.

Subclause (2) also provides for a penalty in relation to the offence and imposes an increased penalty or imprisonment, or both, if a person is guilty of the offence on subsequent occasions.

Clause 205 repeals section 55(4) of the **Meat Industry Act 1993**, which provides that a person appointed or employed by PrimeSafe is not subject to the **Public Administration Act 2004**. The intention of this repeal is to ensure that a person appointed or employed by PrimeSafe is subject to the **Public Administration Act 2004**, as PrimeSafe is a public entity within the meaning of the **Public Administration Act 2004**.

Clause 206 amends section 39C of the **Food Act 1984**. The amendments are consequential in nature and reflect the substitution of section 34 of the **Meat Industry Act 1993** by clause 199 of this Bill.

### **Part 13—Repeal of this Act**

Clause 207 provides for automatic repeal of this amending Bill on 1 March 2024. The repeal of this Bill does not affect the continuing operation of the amendments made by this Bill (see section 15(1) of the **Interpretation of Legislation Act 1984**).