

# Chapter 1

## Introduction

### Referral of inquiry

1.1 On 27 November 2014, the Senate referred the Biosecurity Bill 2014 and related bills to the Senate Rural and Regional Affairs and Transport Committee for inquiry and report by 17 March 2015.

1.2 The Biosecurity Bill 2014 (the Biosecurity Bill) would introduce a new regulatory framework for the management of biosecurity risks in Australian territories. The bill would replace the *Quarantine Act 1908*, under which biosecurity is currently managed. This new regulatory framework would be supported by the proposed amendments in the Biosecurity (Consequential Amendments and Transitional Provisions) Bill 2014, the Quarantine Charges (Imposition—Customs) Amendment Bill 2014, the Quarantine Charges (Imposition—Excise) Amendment Bill 2014 and the Quarantine Charges (Imposition—General) Amendment Bill 2014.

### Background

1.3 In 1908, Parliament passed the Quarantine Act to provide one unified, federal system of quarantine.<sup>1</sup> In the 106 years since its introduction, this national system has been the subject of substantial revision. The Quarantine Act has been amended no fewer than 50 times. As noted in the explanatory memorandum to the Biosecurity Bill, the result is a complex, century-old legislative framework that is 'difficult to interpret and contains overlapping provisions and powers'.<sup>2</sup>

### Recent biosecurity reviews

1.4 Since its inception, Australia's biosecurity system has been subject to several significant reviews. In recent years, these have included a review of the system's capacity to manage the equine influenza outbreak in August 2007. Reporting in April 2008, the review panel, chaired by Commissioner the Hon. Ian Callinan AC, recommended, among other measures, the establishment of the position of the Inspector General of Horse Importation. It was envisaged that the Inspector would act as an external auditor of quarantine premises and the performance of relevant Commonwealth employees.<sup>3</sup> The then Government accepted the recommendation, establishing the position of the Inspector General of Horse Importation in

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1 Sir William Lyne, Minister for Trade and Customs, *House of Representatives Hansard*, 16 July 1907, p. 504.

2 Biosecurity Bill 2014, Explanatory Memorandum, p. 7.

3 Commissioner the Hon. Ian Callinan AC, *Equine influenza: the August 2007 outbreak in Australia, Reported the equine influenza inquiry*, April 2008, p. xxvii.

September 2008.<sup>4</sup> The position was subsequently incorporated into the role of the Interim Inspector-General of Biosecurity.<sup>5</sup>

1.5 A further review was undertaken in 2008. The *Review of Australian quarantine and biosecurity*, chaired by Mr Roger Beale AO (the Beale review), concluded Australia's biosecurity system 'is often the envy of other countries'. However, the Beale review also forecast that significant reforms would be required to ensure Australia's biosecurity system remains responsive to changing and increasing biosecurity risks.<sup>6</sup> As summarised by the Department of Agriculture, the review recommended:

- new biosecurity legislation to replace the *Quarantine Act 1908*;
- improved partnerships with the states and territories and with industry;
- enhanced governance structures, including:
  - an independent commission to assess the biosecurity risks of imports;
  - a national authority to undertake biosecurity operations; and
  - an Inspector-General of Biosecurity to audit the authority's work;
- a risk–return approach to biosecurity operational activities; and
- additional funding for biosecurity activities and upgraded information technology systems.<sup>7</sup>

1.6 In response, the then Government established the Biosecurity Services Group and the Biosecurity Advisory Council.<sup>8</sup> Additionally, to provide independent oversight of Australia's biosecurity programs, in 2009 the position of the Interim Inspector-General of Biosecurity was established by administrative arrangement. It is

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4 The Hon. Tony Burke MP, Minister for Agriculture, Fisheries and Forestry, 'Government acts on another key equine influenza recommendation', Media Release, 11 September 2008.

5 Interim Inspector-General of Biosecurity, 'Background information', <http://www.igb.gov.au/Pages/background-information.aspx> (accessed 2 December 2014).

6 Department of Agriculture, Fisheries and Forestry, *Annual Report 2008–09*, 'Special report: Review of Australian quarantine and by a security ('Beale review')', <http://www.agriculture.gov.au/SiteCollectionDocuments/about/annualreport/0809/beale-review.pdf> (accessed 2 December 2014).

7 Department of Agriculture, Fisheries and Forestry, *Annual Report 2008–09*, 'Special report: Review of Australian quarantine and by a security ('Beale review')', <http://www.agriculture.gov.au/SiteCollectionDocuments/about/annualreport/0809/beale-review.pdf> (accessed 2 December 2014).

8 Department of Agriculture, Fisheries and Forestry, *Annual Report 2008–09*, 'Special report: Review of Australian quarantine and by a security ('Beale review')', <http://www.agriculture.gov.au/SiteCollectionDocuments/about/annualreport/0809/beale-review.pdf> (accessed 2 December 2014).

not a statutory position.<sup>9</sup> The Interim Inspector-General's responsibilities include functions previously assigned to the Inspector General of Horse Importation.<sup>10</sup>

1.7 The then Government also commenced development of a new legislative framework for biosecurity regulation.<sup>11</sup> This work culminated in the Biosecurity Bill 2012 and the Inspector-General of Biosecurity Bill 2012.<sup>12</sup>

### *2012 draft legislative amendments*

1.8 The Biosecurity Bill 2014 is closely modelled on draft legislation introduced to the 43<sup>rd</sup> Parliament.<sup>13</sup> The Biosecurity Bill 2012 (the 2012 Bill) and the Inspector-General of Biosecurity Bill 2012 were introduced in the House of Representatives on 28 November 2012. The provisions of the bills were referred to the Senate Rural and Regional Affairs and Transport Committee for inquiry and report. The committee received submissions on the proposed legislative changes and held four hearings to ascertain the views of stakeholders, which included a broad cross section of industry and state and territory governments.<sup>14</sup> The bills lapsed when Parliament was prorogued on 5 August 2013. While recognising that the inquiry into the 2012 bills was conducted by a differently constituted committee into a different set of the bills, the committee is grateful for the work of the then Senate Rural and Regional Affairs and Transport Legislation Committee. The committee has been mindful of the evidence provided by the thirty-nine submitters to that inquiry, and by witnesses who appeared at the hearings held in Canberra, Perth, Hobart and Brisbane.<sup>15</sup>

1.9 While substantially replicating the 2012 draft legislation, the Biosecurity Bill 2014 varies in three main respects:

- The Biosecurity Bill 2014 would allow the pest and disease status of each region to be included in a Biosecurity Import Risk Analysis (BIRA). The

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9 Biosecurity Bill 2014, Explanatory Memorandum, p. 371.

10 Interim Inspector-General of Biosecurity, 'Background information', <http://www.igb.gov.au/Pages/background-information.aspx> (accessed 2 December 2014).

11 Department of Agriculture, Fisheries and Forestry, *Annual Report 2008–09*, 'Special report: Review of Australian quarantine and by a security ('Beale review')', <http://www.agriculture.gov.au/SiteCollectionDocuments/about/annualreport/0809/beale-review.pdf> (accessed 2 December 2014).

12 Biosecurity Bill 2012, Explanatory Memorandum, p. 1; Inspector-General of Biosecurity Bill 2012, Explanatory Memorandum, p. 4.

13 The Hon. Barnaby Joyce MP, Minister for Agriculture, 'Historic Biosecurity Bill 2014 to safeguard Australia', Media Release, 7 July 2014.

14 Details of the committee's inquiry can be found on the inquiry webpage: [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Rural\\_and\\_Regional\\_Affairs\\_and\\_Transport/Biosecurity2012](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Biosecurity2012) (accessed 2 December 2014).

15 Details of the 2012 inquiry are listed are available online: [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Rural\\_and\\_Regional\\_Affairs\\_and\\_Transport/Biosecurity2012](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Biosecurity2012) (accessed 4 March 2015).

2012 Bill did not allow for regional variations to be taken into account. Submitters to the committee's 2012 inquiry were highly critical of that approach.<sup>16</sup>

- The Inspector-General of Biosecurity Bill 2012 proposed to establish the Inspector-General as a statutory officer, responsible for reviewing the performance of functions and the exercise of powers by the Director of Biosecurity, biosecurity officers and biosecurity enforcement officers. This role would have also included reviewing the process for conducting BIRAs.<sup>17</sup> The 2014 bill package does not include a Inspector-General of Biosecurity Bill. The current bill would retain the office of the Inspector-General of Biosecurity as an administrative position.<sup>18</sup> Consequently, rather than having a clearly defined statutory role, the Inspector-General's role would continue to be determined by the Minister.<sup>19</sup>
- In contrast to the approach taken in the 2012 Bill, the Biosecurity Bill 2014 locates in the one chapter all proposed provisions relating to monitoring, investigation, and enforcement powers. The Department of Agriculture has advised that this approach reflects requirements in the *Regulatory Powers (Standard Provisions) Act 2014* and current legislative drafting protocols.<sup>20</sup>

1.10 The Hon. Barnaby Joyce MP, Minister for Agriculture, has advised that these changes are designed to take into account industry concern with the 2012 Bill.<sup>21</sup> The explanatory memorandum to the Biosecurity Bill 2014 also notes that the Government's decision to retain the Inspector-General of Biosecurity as an administrative, rather than a statutory, position reflects the Government's policy commitment to avoid unnecessary regulation.<sup>22</sup> According to the Minister, retaining the Inspector-General of Biosecurity as an administrative position is not intended to

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16 See, for example, Mr Kim Evans, Secretary, DPIPWE, *Committee Hansard*, 8 May 2013, p. 2; Primary Industry Biosecurity Action Alliance, *Submission 34 to the inquiry into the Biosecurity Bill 2012 and related bills*, p. 4; Mr Michael Grainger, Chair, Brand Tasmania, *Committee Hansard*, 8 May 2013, p. 41. Submissions and Hansard are accessible through the committee's inquiry webpage:

[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Rural\\_and\\_Regional\\_Affairs\\_and\\_Transport/Biosecurity2012](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Biosecurity2012) (accessed 2 December 2014).

17 Inspector-General of Biosecurity Bill 2012, Explanatory Memorandum, p. 1.

18 Department of Agriculture, Biosecurity Bill 2014 and supporting Bills, <http://www.agriculture.gov.au/bsg/biosecurity-reform/new-biosecurity-legislation> (accessed 1 December 2014).

19 Biosecurity Bill 2014, Explanatory Memorandum, p. 371.

20 Department of Agriculture, Biosecurity Bill 2014 and supporting Bills, <http://www.agriculture.gov.au/bsg/biosecurity-reform/new-biosecurity-legislation> (accessed 1 December 2014).

21 The Hon. Barnaby Joyce MP, Minister for Agriculture, 'Historic Biosecurity Bill 2014 to safeguard Australia', Media Release, 7 July 2014.

22 Biosecurity Bill 2014, Explanatory Memorandum, p. 371.

diminish the Inspector-General's capacity 'to provide constructive recommendations for improvements to Australia's biosecurity system'.<sup>23</sup>

## **Overview of provisions - Biosecurity Bill 2014**

1.11 The Biosecurity Bill is intended to provide a high-level framework for the regulation of biosecurity risks.<sup>24</sup> The draft legislation is principles-based, laying a foundation for biosecurity management. It is envisaged that detailed operational requirements would be contained in subordinate legislation.<sup>25</sup> The bill would be jointly administered by the Ministers for Health and Agriculture.<sup>26</sup>

### ***Comparison to Quarantine Act 1908***

1.12 The regulatory impact statement accompanying the bill identifies a number of flaws with the operation of the Quarantine Act. These include the following.

- Duplicate and overlapping powers that cause confusion for importers and others seeking to comply with the requirements of the Quarantine Act.
- Over-regulation, lack of flexibility and inconsistency between current regulatory arrangements and businesses' operational practices and structures.
- A lack of penalty provisions, which restricts the Commonwealth's ability to appropriately respond to the risk posed by people or companies who repeatedly breach the Quarantine Act.
- Limited powers to allow the management of invasive pests onshore, making the Commonwealth dependent on inconsistent state and territory legislation.
- Lack of clarity about the processes for ports to be proclaimed, or to cease to be proclaimed, as a first point of entry.
- An inability under the current legislative framework for Australia to give effect to the International Maritime Organisation's Ballast Water Management Convention.

1.13 To address these issues, the bill would remove existing duplication within the Quarantine Act.<sup>27</sup> While many of the powers proposed in the bill are similar to those

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23 Biosecurity Bill 2014, Explanatory Memorandum, p. 371.

24 Biosecurity Bill 2014, Explanatory Memorandum, p. 8.

25 Department of Agriculture, *Biosecurity Bill 2014 and supporting Bills*, <http://www.agriculture.gov.au/bsg/biosecurity-reform/new-biosecurity-legislation> (accessed 1 December 2014).

26 The Hon. Barnaby Joyce MP, Minister for Agriculture, 'Historic Biosecurity Bill 2014 to safeguard Australia', Media Release, 7 July 2014.

27 Biosecurity Bill 2014, Explanatory Memorandum, p. 8.

under the Quarantine Act, the bill would also expand the regulatory framework.<sup>28</sup> The proposed new powers and procedures include:

- powers to allow for the management of a wider range of pests and diseases;
- a single, Australia-wide ballast water incident management regime, which would allow for the management of the biosecurity risks posed by ballast water held on domestic and international ships;
- increased capacity for Australia to respond to multiple contraventions of biosecurity laws—proposed measures include a 'fit and proper person' test to consider a person's compliance history, and an 'associate test' to consider whether a person applying for an import permit, for example, is an associate of a person the Department of Agriculture does not consider to be a fit and proper person;
- flexible biosecurity measures to strengthen the Commonwealth's capacity to manage the public health risks posed by serious communicable diseases;
- civil penalty provisions, such as infringement notices, civil penalties, and enforceable undertakings; and
- expanded powers to enter and search premises with or without a warrant.<sup>29</sup>

1.14 The bill would also promote a risk-based approach to biosecurity intervention, under which resources are focused on the risks of greatest biosecurity concern. The explanatory memorandum notes that 'the bill will support this approach by providing flexible and responsive powers that allow biosecurity officials to best target risk, based on the circumstances of each case'.<sup>30</sup> The regulatory impact statement explains:

Australia's biosecurity system is based on a risk based approach to managing biosecurity risk. This approach focuses on the goods and entities that are assessed as being the highest risk and puts a greater emphasis on compliance.<sup>31</sup>

1.15 It further advises that a risk-based approach is intended to reduce the costs, and the regulatory burden, for clients and government.<sup>32</sup>

### ***Structure of the Biosecurity Bill 2014***

1.16 The structure of the Biosecurity Bill differs from that of the Quarantine Act. The legislation has been restructured to be easier to navigate and, ideally, to allow powers and obligations to be more readily identified and administered.<sup>33</sup> As noted in

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28 Biosecurity Bill 2014, Explanatory Memorandum, p. 8.

29 Biosecurity Bill 2014, Explanatory Memorandum, pp 8–10.

30 Biosecurity Bill 2014, Explanatory Memorandum, pp 9.

31 Biosecurity Bill 2014, Explanatory Memorandum, p. 380.

32 Biosecurity Bill 2014, Explanatory Memorandum, p. 376.

33 Biosecurity Bill 2014, Explanatory Memorandum, p. 8.

the explanatory memorandum, the bill can be divided into three main areas, namely, operational chapters that support day-to-day biosecurity business; standalone chapters that support specialist biosecurity situations; and general administration chapters that support other necessary functions and powers.<sup>34</sup>

### *Operational chapters*

1.17 The operational chapters (Chapters 3, 4 and 6) set out the powers by which biosecurity officials may identify, assess and manage biosecurity risks in relation to goods, conveyances and onshore pest or disease incursions.

1.18 Chapter 3 would provide biosecurity officials the authority to manage goods that may pose a biosecurity risk when entering Australia. Proposed management options include the power to prohibit goods from being brought into Australia. The level of potential risks would be determined by conducting a BIRA, which is similar to the current Import Risk Analysis process.<sup>35</sup>

1.19 Chapter 4 would provide for the assessment of the level of biosecurity risk posed by conveyances entering Australian territory. Proposed biosecurity measures include controlling the places where conveyances can land or moor, through requiring conveyances to arrive at a declared first point of entry. This chapter would establish the process by which the Director of Biosecurity or the Director of Human Biosecurity may declare a location a first point of entry.

1.20 Chapter 6 would provide powers to control biosecurity risks within Australia, including Australia's territorial waters. 'Biosecurity risk' would be defined to include the likelihood of a disease or pest, including invasive pests, entering Australian territory and the potential for the disease or pest to harm human, animal or plant health, the environment or the economy.

1.21 Proposed powers to manage unacceptable levels of biosecurity risks include the authority to establish 'biosecurity monitoring zones' in which biosecurity officers may undertake monitoring and surveillance activities. The bill would allow for two kinds of biosecurity monitoring zones—permanent biosecurity monitoring zones and temporary biosecurity monitoring zones. It is proposed that permanent biosecurity monitoring zones would be areas in Australian territories that are considered to pose a high level of biosecurity risk—such as first points of entry.

1.22 Where pest or disease incursions are identified, Chapter 6 would also allow a biosecurity activity zone to be declared. It is proposed that biosecurity officers would be authorised to control where and how people, goods or conveyances enter or exit the zone.

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34 Biosecurity Bill 2014, Explanatory Memorandum, p. 11.

35 Biosecurity Bill 2014, Explanatory Memorandum, p. 11; Department of Agriculture, *Biosecurity Bulletin*, Edition 6, 2014, <http://www.agriculture.gov.au/biosecurity/about/reports-pubs/biosecurity-bulletin/2014/edition-6> (accessed 9 December 2014).

*Specialist biosecurity management chapters*

1.23 Chapters 2, 5, 7 and 8 outline and support specialist biosecurity management.

1.24 Chapter 2 contains proposed powers to manage biosecurity risks to human health. These powers would only apply to listed human diseases as determined by the Director of Human Biosecurity. Before imposing biosecurity measure, the principles in Chapter 2, Part 1, Division II must be considered. The principles would include that the decision-maker is satisfied the exercise of power is likely to contribute to managing the risk, is appropriate and specifically tailored to manage the risk, and that the circumstances are sufficiently serious to justify the proposed exercise of powers. Biosecurity measures to manage the risk of communicable diseases would include powers to issue a 'human biosecurity control order', under which an individual may be required to comply with certain biosecurity control measures such as vaccination, restrictions on the individual's behaviour and requiring the individual to remain isolated.

1.25 Chapter 5 would introduce powers to allow the Commonwealth to respond to the risks posed by ballast water in international and domestic vessels. Measures in the proposed Australia-wide ballast water incident management regime would include requiring the operator of a vessel to give a report if it is intended that the vessel discharge ballast water in Australian seas. The explanatory memorandum advises that the chapter seeks to further implement Australia's obligations as a signatory to the International Health Regulations.<sup>36</sup>

1.26 Chapter 7 would enable the Director of Biosecurity or the Director of Human Biosecurity to approve arrangements to allow industry to carry out activities to manage biosecurity risks associated with specified goods or premises. The explanatory memorandum notes that the chapter would 'allow the Commonwealth to partner with industry through an approved arrangement scheme', under which industry participants may 'manage the biosecurity risks associated with their own operations in the most efficient and effective way.'<sup>37</sup> Such an arrangement would be known as an 'approved arrangement'.

1.27 Chapter 8 outlines proposed powers to respond to biosecurity emergencies and human biosecurity emergencies of national significance. The proposed powers are intended to complement existing arrangements and state and territory controls.<sup>38</sup> The Governor-General would be authorised to issue a 'biosecurity security emergency' declaration if the Minister of Agriculture is satisfied that the special powers contemplated in Chapter 8 of the bill are necessary to deal with biosecurity emergencies of national significance. Proposed powers to respond to such

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36 Biosecurity Bill 2014, Explanatory Memorandum, p. 12.

37 Biosecurity Bill 2014, Explanatory Memorandum, p. 12.

38 Biosecurity Bill 2014, Explanatory Memorandum, p. 13.

emergencies include the power to evacuate places and to restrict or prevent the movement of persons, goods or conveyances between specified places.

#### *General administration chapters*

1.28 Chapters 1, 9, 10 and 11 are intended to provide a framework for the administration of Australia's biosecurity system. While Chapter 9 is included in the list of general administration chapters in the explanatory memorandum, it contains significant coercive monitoring and entry, search and seizure powers and therefore will be considered separately.

1.29 Chapter 1 addresses administrative matters such as jurisdiction, commencement of the proposed legislation, and definitions of key terms.

1.30 Chapter 10 would create the positions of the Director of Biosecurity, the Director of Human Biosecurity, biosecurity officers, biosecurity enforcement officers and human biosecurity officers. According to the explanatory memorandum it is intended that the Secretary of the Department of Agriculture would be appointed as the Director of Biosecurity, and the Commonwealth Chief Medical Officer would be appointed as the Director of Human Biosecurity.<sup>39</sup>

1.31 Chapter 11 contains miscellaneous matters, that is, topics that do not belong in other chapters but are considered important to the overall administration of the bill. Matters include cost recovery, exemptions and modifications, immunity, information sharing and reviewable decisions, as well as provisions relating to the application of relevant treaties.

#### *Coercive monitoring powers*

1.32 Chapter 9 would introduce a range of new monitoring and enforcement powers. The explanatory memorandum advises that these powers are intended to operate as 'tools to manage compliance and enforcement' and are 'designed to encourage clients to voluntarily comply with biosecurity requirements'.<sup>40</sup> Biosecurity officers would be authorised to enter and search premises with consent or under a warrant. The bill would also provide biosecurity officers additional powers to respond to biosecurity emergencies. In these circumstances, biosecurity officers would be authorised to enter and search premises without warrant.

#### *Offences*

1.33 The bill also contains a number of proposed offences. Aspects of the proposed offences deviate from normal Commonwealth practice. Notably, the bill:

- contains several strict liability offences;

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39 Biosecurity Bill 2014, Explanatory Memorandum, p. 13.

40 Biosecurity Bill 2014, Explanatory Memorandum, p. 13.

- contains penalties that exceed the recommended levels for like offences in existing Commonwealth legislation;
- reverses the evidential burden of proof in a number of cases; and
- abrogates the privilege against self-incrimination.

1.34 The explanatory memorandum advises that all departures from the standard Commonwealth approach to framing offences have been approved by the Commonwealth Attorney-General.<sup>41</sup>

### **Overview of provisions: Biosecurity (Consequential Amendments and Transitional Provisions) Bill 2014**

1.35 The Biosecurity (Consequential Amendments and Transitional Provisions) Bill 2014 would introduce transitional arrangements, which are intended to ensure a seamless transition from existing regulatory requirements under the Quarantine Act to the proposed new biosecurity framework.<sup>42</sup> Directions and permits issued under the Quarantine Act would, for the most part, continue to be valid and would take effect as if issued under the Biosecurity Act. This would allow operators to transition to any new requirements proposed under the Biosecurity Bill. It would also ensure that arrangements, such as surveillance and control activities, in place at the time the Quarantine Act was repealed would continue to be valid and enforceable.<sup>43</sup>

1.36 For example, in relation to permits for first points of entry, such as international airports and Australian ports, the explanatory memorandum provides the following advice:

Schedule 3 provides a three-year transition period for first points of entry... This three-year transition period will provide port and landing place operators additional time to upgrade their facilities (if necessary) and undertake any additional activity to satisfy the requirements. This transition period can be extended.<sup>44</sup>

1.37 Notably, the bill would repeal the Quarantine Act and the *Quarantine Charges (Collections) Act 2014*. The repeal would take effect on the day the operative

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41 Biosecurity Bill 2014, Explanatory Memorandum, pp 14–17.

42 Biosecurity (Consequential Amendments and Transitional Provisions) Bill 2014, Schedules 3 and 4.

43 Biosecurity (Consequential Amendments and Transitional Provisions) Bill 2014, Explanatory Memorandum, pp 5–7.

44 Biosecurity (Consequential Amendments and Transitional Provisions) Bill 2014, Explanatory Memorandum, p. 6.

provisions in the Biosecurity Bill (if enacted) commence.<sup>45</sup> Provisions modelled on the Quarantine Charges (Collections) Act would be located in the Biosecurity Bill.<sup>46</sup>

1.38 The bill would also provide for consequential amendments to existing Commonwealth legislation, to ensure the statute book takes account of the proposed repeal of the Quarantine Act and the introduction of new biosecurity legislation. Amendments are proposed to 20 Commonwealth Acts, which include the *Customs Act 1901*, the *Environmental Protection and Biodiversity Conversation Act 1999*, the *Fisheries Management Act 1991* and the *National Health Act 1953*.<sup>47</sup>

### **Overview of provisions: Quarantine Charges (Imposition—Customs) Amendment Bill 2014, Quarantine Charges (Imposition—Excise) Amendment Bill 2014 and the Quarantine Charges (Imposition—General) Amendment Bill 2014**

1.39 The biosecurity reform bills include three bills that would allow government to recover the cost of indirect services that would be provided under the Biosecurity Bill (if enacted). The *Quarantine Charges (Imposition—Customs) Act 2014*, *Quarantine Charges (Imposition—Excise) Act 2014* and the *Quarantine Charges (Imposition—General) Act 2014* outline the arrangements under which government may recover the costs associated with the indirect biosecurity services provided by the Department of Agriculture for the benefit of importers.<sup>48</sup> The bills would transfer these arrangements to the proposed new biosecurity framework. As noted in the explanatory memorandum, this would 'sit alongside the proposed fee-for-service cost recovery mechanisms in the Biosecurity Bill.'<sup>49</sup> This reflects current arrangements under the Quarantine Act.<sup>50</sup>

### **Consideration by Parliamentary legislative scrutiny committees**

1.40 The committee recognises the work undertaken by other Parliamentary committees responsible for considering draft legislation. The Parliamentary Joint Committee on Human Rights concluded that while the bills would limit multiple

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45 Biosecurity (Consequential Amendments and Transitional Provisions) Bill 2014, cl. 2.

46 Biosecurity (Consequential Amendments and Transitional Provisions) Bill 2014, Explanatory Memorandum, p. 4.

47 Biosecurity (Consequential Amendments and Transitional Provisions) Bill 2014, Schedule 2.

48 Quarantine Charges (Imposition—Customs) Bill 2014, Quarantine Charges (Imposition—Excise) Bill 2014 and the Quarantine Charges (Imposition—General) Bill 2014, Explanatory Memorandum, p. 3.

49 Quarantine Charges (Imposition—Customs) Amendment Bill 2014, Quarantine Charges (Imposition—Excise) Amendment Bill 2014 and the Quarantine Charges (Imposition—General) Amendment Bill 2014, Explanatory Memorandum, p. 3.

50 Quarantine Charges (Imposition—Customs) Bill 2014, Quarantine Charges (Imposition—Excise) Bill 2014 and the Quarantine Charges (Imposition—General) Bill 2014, Explanatory Memorandum, p. 3.

rights, such as the right to freedom of movement and the right to privacy, the limitations on these rights would be justified and compatible with Australia's human rights obligations.<sup>51</sup>

1.41 The Senate Standing Committee for the Scrutiny of Bills also examined the Biosecurity Bill and related bills. The committee identified a number of issues, and in most circumstances noted the detailed comments provided in the explanatory memorandum. In some instances the committee requested further information from the Minister for Agriculture and is awaiting a response. These comments are discussed in more detail in chapter 2 of this report.<sup>52</sup>

### **Conduct of inquiry**

1.42 The committee advertised the inquiry on its webpage and in *The Australian*, calling for submissions by 16 January 2015. The committee also wrote to a range of organisations and individuals likely to have an interest in the matters covered by the bills, drawing their attention to the inquiry and inviting them to make written submissions.

1.43 The committee received 28 submissions, as listed in Appendix 1. Submissions were published on the committee's inquiry webpage.

1.44 The committee held a hearing in Canberra on 11 February 2015. A list of persons and organisations who gave evidence at the hearing is in Appendix 2.

### **Acknowledgement**

1.45 The committee thanks the organisations and individuals that made submissions to the inquiry or appeared at public hearings. The committee acknowledges the efforts of the organisations and individuals who contributed not only to this inquiry but to the inquiry into the 2012 bills. This work has informed the committee's deliberations.

### **Note on references**

1.46 References to Hansard are to proof Hansard. Page numbers may vary between the proof and the official (final) Hansard.

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51 Parliamentary Joint Committee on Human Rights, *18th report of the 44th Parliament*, 10 February 2015, p. 33.

52 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest No. 2 of 2015*, 4 March 2015, pp 11–27.