

Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Bill 2006

Explanatory Memorandum

The *Biosecurity and Agriculture Management Bill 2006* (BAM Bill) will replace 17 Acts within the agriculture portfolio with one Act supported by regulations and other subsidiary legislation. The Acts to be replaced will be repealed by the *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Bill 2006*.

These Acts are:

Aerial Spraying Control Act 1966
Agricultural Produce (Chemical Residues) Act 1983
Agricultural Products Act 1929
Agriculture Protection Board Act 1950
Agriculture and Related Resources Protection Act 1976
Argentine Ant Act 1968
Artificial Breeding of Stock Act 1965
Beekeepers Act 1963
Cattle Industry Compensation Act 1965
Fertilizers Act 1977
Plant Diseases Act 1914
Plant Pest and Disease (Eradication Funds) Act 1974
Seeds Act 1981
Stock (Identification and Movement) Act 1970
Stock Diseases (Regulations) Act 1968
Veterinary Chemical Control and Animal Feeding Stuffs Act 1976

The BAM Bill also impacts on a few other Acts and consequential amendments to these Acts are required. Most of the consequential amendments are of a minor nature, replacing references to titles and provisions of other legislation.

This Bill also includes transitional and savings provisions to ensure a smooth transition from the existing to the new legislation.

An explanation of each clause of the Bill is provided below.

Part 1 – Preliminary

This Part contains the short title, commencement provisions and definitions of terms used in the Bill.

1 Short title

The title of the Bill is the *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Bill 2006* (BAM (RCP) Bill).

2 Commencement

The Act will come into operation on a day fixed by proclamation and different days may be fixed for different provisions. This is subject to some specific commencement preconditions for three clauses.

Subclause (3) relates to section 34 which will repeal the *Agriculture Protection Board Act 1950*. Before this can take effect the Minister must certify by notice to the Governor that each employee of the APB has been employed within the public sector, taken re-deployment or redundancy or resigned or otherwise ceased employment with the APB. A clause such as this is a necessary safeguard for staff of a statutory authority that is being abolished. (Although in this case the staff member assisting the APB is actually employed by the Department of Agriculture and Food.)

Subclauses (4) and (5) are designed to ensure that any cattle or grain producer who would have been eligible for compensation under legislation that will be repealed will be eligible for compensation under any replacement scheme under the BAM Act.

Subclause (4) relates to section 54, which repeals the *Cattle Industry Compensation Act 1965*. This can not come into operation until the Minister has given the Governor written certification that:

- A prescribed account has been established under the BAM Act for the cattle industry; and
- Adequate provision has been made for compensation from that account in relation to cattle that are destroyed under the BAM Act because of a disease that would have been eligible for compensation (the subject of a declaration) under the Cattle Industry Compensation Act.

Subclause (5) relates to section 69 which will repeal the *Plant Pests and Diseases (Eradication Funds) Act 1974*. Here also the Minister is required to certify that a relevant prescribed account has been established and that adequate provision has been made for compensation that would have been available under the repealed Act.

Clause 3 Meaning of terms used in the Act.

The definitions here are self-explanatory.

Part 2 – Repeals, transitional provisions and consequential amendments

Division 1 – Preliminary

This Division is concerned with ensuring that there is sufficient provision made for a smooth transition to the new legislation from the legislation that will be

repealed and from the existing provisions of Acts that will be amended to what they will be when amended.

Clause 4 Application of *Interpretation Act 1984*

This clause is designed to ensure that subsidiary legislation, authorisations and other instruments made under the Acts to be repealed can continue to operate to the extent necessary under the BAM Act and to the extent that they are not inconsistent with the BAM Act.

The provisions of the Interpretation Act that are referred to in subclause (2) enable things done under an Act that is repealed to continue in effect under an Act that re-enacts the repealed Act, so far as that is consistent with the new Act. These provisions are to apply in relation to the Acts to be repealed by this Bill as though they were re-enacted by the BAM Act.

This means that, if necessary, and so long as they are not inconsistent with the BAM Act, regulations made under the existing statutes can continue to operate. Subclause (3) makes it clear that any provisions of this Bill that relate to matters covered by the applied provisions of the Interpretation Act are in addition to those provisions and do not mean that the Interpretation Act provisions don't continue to apply.

To cover all bases, subclause (4) allows regulations to be made under the BAM Act in relation to issues arising because of the application of the provisions of the Interpretation Act and by virtue of subclause (5). These regulations may effectively do whatever is necessary to resolve the issues arising and ensure the appropriate application of the pre-existing instruments. Things that may be done include modifying the operation of any written law (paragraph (a)), providing that an instrument issued under a repealed Act is taken to be issued under the BAM Act (paragraph (b)) and providing that in relation to a particular instrument subclause (2), and therefore the relevant provisions of the Interpretation Act, do not apply.

Clause 5 Transitional regulations

This clause allows issues or matters of a transitional nature (relating to the transition from the existing legislation to the BAM Act) to be dealt with by regulation if there is insufficient provision in the Act. These transitional regulations can, if need be, specify that certain provisions of a written law do not apply or modify what would otherwise be the operation of a written law.

Subclause (4) allows some retrospectivity in the transitional regulations so that a state of affairs can be taken to have existed prior to the regulations being published, but this cannot operate to prejudice or impose a liability on any person (except government) prior to the day of publication.

Clause 6 Regulations under repealed Acts: transitional provisions

This clause authorises regulations under the BAM Act setting out:

- Provisions of a saving or transitional nature to deal with matters arising from the amendment or repeal of regulations made under a repealed

Act. This will allow regulations to deal with gaps or possible problems arising because existing regulations have been amended or repealed.

- Provisions of a transitional nature to deal with a regulation made under a repealed Act ceasing to have effect because there is not power to make that regulation under the BAM Act. These regulations would deal with a similar situation arising because a regulation made under the repealed legislation is not authorised by the BAM Act.

Clause 7 Construction of references in written laws

This clause allows a reference in another written law to one of the repealed Acts to be read as a reference to the corresponding provision of the BAM Act – if there is one.

It will be seen that the provisions of this Division can cover every conceivable transitional issue to facilitate a smooth transition to the new legislation. Most of the provisions may well not be needed but they are there ‘just in case’.

Division 2 – Agriculture Act 1988

Subdivision 1 – Repeal and consequential amendments

This subdivision repeals the Agriculture Act and amends 3 Acts that refer to it.

Clause 8 Repeal

This clause will repeal of the *Agriculture Act 1988*.

Clause 9 Animal Welfare Act 2002, consequential amendments

This replaces a reference to the Agriculture Act with a reference to the BAM Act.

Clause 10 Health Act 1911, consequential amendments

Amends section 246B of the *Health Act 1911* to allow an *ex officio* appointment to the Pesticide Advisory Committee under the Health Act of the chief executive officer of the department principally assisting the administration of the BAM Act, or an officer nominated by the chief executive officer. This amendment is required to allow the Director General or his nominee to continue to provide advice to the Pesticide Advisory Committee on matters related to the use of agricultural and veterinary chemicals.

Clause 11 Land Administration Act 1977, consequential amendments

Amends section 97(1)(b) of the *Land Administration Act 1997* to allow an *ex officio* appointment to the Pastoral Lands Board of the chief executive officer of the Department principally assisting the administration of the BAM Act, or an officer nominated by the chief executive officer to the. This amendment is required to allow the Director General or his nominee to continue to be involved in the Pastoral Lands Board on matters related to the sustainable use of the rangelands for pastoral production and for the control of animal and plant pests on and in relation to pastoral leases.

Subdivision 2 – Transitional and savings provisions

This subdivision concerns the transition from the provisions of the Agriculture Act to the provisions of the BAM Act - principally the transition from the Chief Executive Officer of the Department of Agriculture as a body corporate under the Agriculture Act to the Ministerial body corporate under the BAM Act. The conferral of corporate status on a department CEO is something of a legislative anomaly and the BAM Act is in line with standard policy in having corporate status residing in a Minister or “Ministerial Body”.

Clause 12 Terms used in this subdivision

The three terms defined here are self explanatory. The former body corporate is referred to as the “former holder” and the commencement day will be the day the Agriculture Act is repealed.

Clause 13 Ministerial Body is successor in title of former holder

This clause simply states the legal position that the former holder is succeeded by the Ministerial body.

Clause 14 Devolution of Assets and liabilities

Under this clause all the assets, rights and liabilities of the former holder vest in the Ministerial body, all proceedings in which the former body was or could have been involved may be taken by or against the Ministerial body and all records and data pass to the Ministerial body.

Clause 15 Certain Crown land

Crown land that was under the care control or management of the former holder is to be regarded as if it has been (under the Land Administration Act) reserved for the purposes of the functions of the Ministerial body and placed under the care, control and management of the Ministerial body.

Clause 16 Certain intellectual property

This clause vests in the Ministerial body any intellectual property right that was created, acquired or held for the purposes of the Agriculture Act and was formerly vested in the State.

This will cover, for example, grain, pasture and horticultural varieties bred and developed by the Department of Agriculture and Food or the department in conjunction with other research organisations.

Clause 17 Agreements and instruments generally

Under this clause contracts and instruments involving the former holder have effect as if the Ministerial body were substituted.

Division 3 – Aerial spraying Control Act 1966

Clause 18 Repeal

This clause repeals the *Aerial Spraying Control Act 1966*.

Clause 19 Transitional provision

This clause continues sections 14(4), (5) and (6) and 16 of the *Aerial Spraying Control Act 1966*, in relation to aerial spraying carried out before the repeal, so that:

- A person continues to be required to notify the Director General if they observe any damage to crops, trees, pastures or other growth or animal life that may have been caused by chemical spray drift from aerial operations, before a claim for damages can proceed in any Court (unless with leave of a Judge).
- A pilot chemical rating certificate issued in another State remains valid. (A certificate issued under the repealed Act in W.A. remains valid by virtue of section 37 of the Interpretation Act.)

Division 4 - *Agricultural Produce (Chemical Residues) Act 1983***Clause 20 Repeal**

This repeals the *Agricultural Produce (Chemical Residues) Act 1983*.

Division 5 - *Agricultural Products Act 1929***Subdivision 1 – Repeal and consequential amendments****Clause 21 Repeal**

This repeals the *Agricultural Products Act 1929*.

Clause 22 *Constitution Acts Amendment Act 1899*, consequential amendments

This amends the *Constitution Acts Amendment Act 1899*, by deleting references to the Apple Sales Advisory Committee, the Citrus Sales Advisory Committee and the Stone-Fruit Sales Advisory Committee that appear in Schedule V Part 3 of that Act. None of these committees currently exist so there is no requirement for a member of any of these committees to vacate their office if they are elected as a member of Parliament.

Clause 23 *Consumer Affairs Act 1971*, consequential amendment

This amends the schedule to the *Consumer Affairs Act 1971* by removing the reference to the *Agricultural Products Act 1929* as an Act that prohibits or regulates the supply of goods. These are Acts that prevail over the product safety provisions of the Consumer Affairs Act in the event of an inconsistency with those provisions.

Subdivision 2 – Transitional and savings provisions**Clause 24 Meaning of terms used in this Subdivision**

The definitions are self-explanatory.

Clause 25 Funds in, or payable to former account

Subclause (1) transfers moneys standing to the credit of the Agricultural Products Act Modified Penalties Revenue Fund to the Modified Penalties Revenue Account established under the BAM Act. The money will be applied

to payment of liabilities of the former account arising before the commencement day and then to the purposes for which the BAM Act account may be used (as set out in section 149 of the BAM Act).

Under subclause (2) any money that became due but had not yet been paid before the repeal is to be paid to the BAM Act account.

Clause 26 Reference to the former account

A reference to the former account in an agreement, instrument or other document will have effect as a reference to the BAM Act Modified Penalties Revenue Account.

Division 6 - *Agriculture and Related Resources Protection Act 1976*

Subdivision 1 – Repeal and consequential amendments

Clause 27 Repeal

The *Agriculture and Related Resources Protection Act 1976* (ARRP Act) will be repealed on a day to be fixed by proclamation and different days may be fixed for different provisions. This will allow some provisions of the Act to remain in effect for longer than others, if necessary. For example, it may be necessary to continue the provisions for the Declared Plant and Animal Control Fund beyond the repeal of the rest of the Act to allow time for regulations and the new rating system to be developed.

Clause 28 *Bush Fires Act 1954*, consequential amendments

The provisions of the *Bush Fires Act 1954* that are amended by this clause relate to the burning of plants during prohibited burning times (to eradicate the plant or prevent disease). This may be authorised by proclamation of the Governor and is then required to take place in accordance with the regulations (section 26). This provision does not apply to declared plants under the *Agriculture and Related Resources Protection Act 1976* because (under section 26A) these plants may be burned, in accordance with the regulations (which require a permit) without needing a proclamation. The amendments to sections 26 and 26A simply change the reference to declared plant under the *Agriculture and Related Resources Protection Act 1976* to declared pest under the BAM Act.

Clause 29 *Consumer Affairs Act 1971*, consequential amendment

This amends the schedule to the *Consumer Affairs Act 1971* by removing the reference to the *Agricultural and Related Resources Protection Act 1976* as an Act that prohibits or regulates the supply of goods. These are Acts that prevail over the product safety provisions of the Consumer Affairs Act in the event of an inconsistency with those provisions.

Subdivision 2 – Transitional and savings provisions

Clause 30 Meaning of terms used in this Subdivision

Defines terms used in this subdivision, including the term:

“**former account**” which is a reference to the Declared Plant and

Animal Control Fund that is established under section 65 of the *Agricultural and Related Resources Protection Act 1976*. The fund is established to manage rate revenue received from pastoral lessees together with a matching component from the Consolidated Fund. The combined revenue is spent on control programs for declared plants and animals on pastoral leases. A Declared Pest Account will be established under section 137 of the BAM Act to replace the Declared Plant and Animal Control Fund.

Clause 31 Rates on Pastoral Leases

Under this clause the rating provisions of the repealed Act will continue to operate in relation to a rate payable for a financial year commencing before the commencement day. This will avoid changing things mid-stream with possible inconsistencies and inequities. Rates to be imposed for the pastoral region under the BAM Act will relate to a new financial year.

Clause 32 Funds in, or payable to, former account

This provides for the transfer of money from the former account (the Declared Plants and Animals Control Fund under the *Agriculture and Related Resources Protection Act 1976*) to the Declared Pest Account of the BAM Act. The money is to be applied in payment of any liabilities of the former account which arose before the *Agriculture and Related Resources Protection Act 1976* was repealed and then for the purposes for which the BAM Act Declared Pest Account may be used.

Any money payable to the former account before the repeal but not paid until afterwards is also to be credited to the BAM Act Declared Pest Account.

Clause 33 Reference to former account

After the repeal of the *Agriculture and Related Resources Protection Act 1976* a reference to the former account in any agreement, instrument or other document is to be read as a reference to the BAM Act declared Pest Account.

Division 7 – Agriculture Protection Board Act 1950

Subdivision 1 – Repeal and consequential amendments

Clause 34 Repeal

This clause repeals the *Agriculture Protection Board Act 1950*.

Clause 35 Constitution Acts Amendment Act 1899, consequential amendment

This amends the *Constitution Acts Amendment Act 1899*, by deleting the reference to the Agriculture Protection Board in Schedule V Part 3 of that Act (offices that must be vacated if the holder is elected to Parliament).

Clause 36 Financial Administration and Audit Act 1985, consequential amendment

This amends the *Financial Administration and Audit Act 1985*, by deleting the reference to The Agriculture Protection Board in Schedule 1 of that Act, the list of Statutory Authorities in Western Australia.

Clause 37 *Firearms Act 1973, consequential amendments*

This amends the *Firearms Act 1973* by replacing references to the Agriculture Protection Board and inspectors appointed under the *Agriculture Protection Board 1950* with the Department principally assisting in the administration of the BAM Act and inspectors appointed under the BAM Act. This amendment will allow the Minister for Police to authorise inspectors to possess, carry and use silencers on specified calibres of rifles to control certain declared pest birds.

Subclause (3) broadens the types of bird pests for which silencers may be used to control. The existing provision in the *Firearms Act 1973* only allows the use of silenced rifles to control common starlings (*Sturnus vulgaris*). Silenced rifles are particularly effective for controlling prohibited bird species such as Indian mynas (*Acridotheres tristis*) and Indian ringneck parrots (*Psittacula krameri*), that are occasionally found at ports and in other areas of the State. The amendment to subsection 17B(3)(c) will allow silenced weapons to be used to control any bird that is a declared pest under the BAM Act. This amendment is supported by the Commissioner of Police.

Clause 38 *Plant Pests and Diseases (Eradication funds) Act 1974, consequential amendments*

This amends the *Plant Pests and Diseases (Eradications Funds) Act 1974*, so that the functions of the Protection Board under that Act are transferred to the Agriculture Ministerial Body when the Agriculture Protection Board Act is repealed.

Clause 39 *Public Sector Management Act 1994, consequential amendment*

This amends the *Public Sector Management Act 1994* by deleting the reference to the Agriculture Protection Board in Schedule 2 item 48 of the Act – the list of Senior Executive Service organisations.

Subdivision 2 – Transitional provisions

Clause 40 *Meaning of terms used in this subdivision*

The terms are largely self explanatory. The “former account” is the account under the Agriculture Protection Board Act to fund the exercise of the Board’s functions.

Clause 41 *funds in, or payable to the former account*

When the Agriculture Protection Board Act is repealed the money in the former account will be returned to the Consolidated Fund, as will any money that was due but had not been paid before the repeal.

Clause 42 *Devolution of assets and liabilities*

This provides for the devolution of the assets, rights and liabilities of the Agriculture Protection Board to the Agriculture Ministerial Body, for any proceedings by or against the Agriculture Protection Board to be continued by or against the Ministerial Body and for all records of the Board to pass to the Ministerial Body.

Clause 43 Proceeds of sale of certain assets

This clause covers assets of the APB that were purchased by the Board from money in the Funds managed by the Board under the 2 Acts specified in subclauses (1) and (2). If these assets are sold the proceeds must be credited to the accounts under the BAM Act that replace these Funds.

Under subclause (3) proof that a purchase was made from the relevant fund can be provided by certification of the Ministerial Body. Other proof, if needed, may not be available where purchases were made more than 6 years ago.

Clause 44 Exemption from State taxation

No State taxes are payable on any transfer of assets from the APB to the Ministerial Body or on anything else done under these transitional provisions so that the State is not taxing the State.

Clause 45 Final reporting

Subclause (2) requires a final report to be prepared for the period since the last full financial year of existence of the APB until the repeal of the APB Act (the final period). This is to be done as required under section 70A of the *Financial Administration and Audit Act 1985* (FAA Act) when a department or statutory authority is abolished by a “reporting officer” appointed under section 70A(2) (see subclause (1)). That section requires appointment by the Treasurer. The references to sections 66 and 69 are to the provisions requiring financial statements and tabling of the report as for an annual report.

The effect of subclause (3) is that the reporting officer is required to complete any annual reporting requirements of the APB that were not fulfilled before the repeal of the APB Act. Subclause (4) gives the reporting officer 3 months within which to do this.

Departmental officers may assist the reporting officer in carrying out his or her functions as referred to in this clause (subclause (5)).

Clause 46 Agreements and instruments generally

This will ensure that references to the APB in any contract or instrument (whether as a party to the contract or instrument or otherwise) will have effect as though the reference was to the Ministerial Body.

Clause 47 Immunity continues

Any immunity that the APB had continues for the benefit of the State.

Clause 48 Registration of documents

Any registration of documents with the Registrar of Titles that needs to take place to give effect to the provisions of this part may take place without the applications or instruments that would normally be required.

Clause 49 Saving

Subclause (1) will prevent anything that takes place under this subdivision from giving rise to a civil action for breach of contract or confidence or anything else or from amounting to the situations referred to in the other

subclauses all of which relate to circumstances under which a party may make a claim for a civil law remedy.

This takes account of the fact that there may be contracts or other legal arrangements and instruments under which the transfers etc effected by this subdivision would constitute a breach if they took place otherwise than under these provisions.

Division 8, 9 and 10 – Argentine Ant Act 1968, Artificial Breeding of Stock Act 1965, Beekeepers Act 1968

Clauses 50 – 53 effect the repeal of these three Acts. Only one consequential amendment is required (**clause 52**) – to delete the reference to the Artificial Breeding Board (abolished in 1965) from the list of offices that must be vacated if the holder is elected to Parliament.

Division 11 – Cattle Industry Compensation Act 1965

Subdivision 1 – Repeal and consequential provisions

Clauses 54 – 56 repeal the *Cattle Industry Compensation Act 1965* (CICA) and delete reference to it from the Sentencing Act (the list of Acts where fines are not to be credited to the Consolidated Fund) and the Stamp Act schedule of duties payable - where cattle sales statements under the CICA are listed.

The repeal (**clause 54**) can not take place until an account for the cattle industry (to replace the Fund under CICA) has been established under the BAM Act – see clause 2(4).

Subdivision 2 – Transitional provisions

The provisions in this subdivision are mainly concerned with what is to happen to money in the Cattle Industry Compensation Fund under the CICA (the “former account”) when the CICA is repealed.

Clause 57 Meaning of terms used in this subdivision

These definitions are self explanatory.

Clause 58 Compensation claims made before repeal

Compensation claims made but not yet fully dealt with when the CICA is repealed are to be dealt with under that Act as though it had not been repealed. This will avoid any inconsistencies or inequities.

Clause 59 Funds in, or payable to, former account

Funds in the former account when the CICA is repealed are to be paid to the relevant cattle industry account established under the BAM Act. The funds are to be applied to pay any compensation still outstanding under the repealed Act and any liabilities of the former account and can then be used for the purposes for which the rest of the BAM Act account may be used.

Any money owing to the former account but paid after the repeal is to be paid into the BAM Act account for the cattle industry.

Clause 60 Reference to former account

When the CICA is repealed references to the former account will take effect as a reference to the BAM Act account for the cattle industry.

Division 12 – Fertilizers Act 1977

This division repeals the *Fertilizers Act 1977* (clause 61) and deletes reference to it from the list in the schedule to the *Consumer Affairs Act 1971* of Acts that prohibit or regulate the supply of goods (clause 62). These are Acts that prevail over the product safety provisions of the Consumer Affairs Act in the event of an inconsistency with those provisions.

Division 13 – Plant Diseases Act 1914

Subdivision 1 – Repeal and consequential amendments

Clause 63 Repeal

This repeals the Plant Diseases Act.

Clause 64 Agricultural Produce Commission Act 1988, consequential amendment

This amendment inserts a new clause 12A into the Agricultural Produce Commission Act. A clause to this effect currently appears in the Plant Diseases Act and since this Act is being repealed the provision will be included in the Agricultural Produce Commission Act instead.

Clause 65 Consumer Affairs Act 1971, consequential amendment

Deletes reference to the *Plant Diseases Act 1914* from the list in the schedule to the *Consumer Affairs Act 1971* of Acts that prohibit or regulate the supply of goods. These are Acts that prevail over the product safety provisions of the Consumer Affairs Act in the event of an inconsistency with those provisions.

Subdivision 2 – Savings and transitional provisions

Clause 66 Meaning of terms used in this Subdivision

The terms are self explanatory. There was a modified penalties account under the repealed Act and this is referred to as the “former account”.

Clause 67 Funds in or payable to, former account

When the Plant Diseases Act is repealed any funds in the former account are to be transferred to the Modified Penalties Revenue Account under the BAM Act. Once any pre-existing liabilities of the former account have been met that account is to be closed.

Under subclause (2) any money that remain due to the former account on the repeal is to be credited to the BAM Act Modified Penalties Revenue Account when it is paid.

Clause 68 Reference to former account

A reference in any document to the former account will have effect as a reference to the BAM Act Modified Penalties Revenue Account.

Division 14 – *Plant Pests and Diseases (Eradication Funds) Act 1974*

Subdivision 1 – Repeal and consequential amendment

Clause 69 Repeal

This repeals the *Plant Pests and Diseases (Eradication Funds) Act 1974* (EF Act).

Clause 70 *Bulk Handling Act 1967*, consequential amendments

The EF Act requires growers of grain and seed to make a contribution to the skeleton Weed Eradication Fund and may require a contribution to the Plant Diseases Eradication Fund. Section 34D of the Bulk Handling Act authorises Co-operative Bulk Handling (CBH - The Company) to pay the contribution which a person delivering grain or seed to the Company is liable to pay under the EF Act. It also enables this payment to be recovered from and secured against the person in respect of whom it is paid and to discharge that person from liability for the amount paid. This means any dispute about payment of a contribution will be between the Company and the grower, not the Fund and the grower.

The new section 34D which is inserted by subclause (2) is to the same effect but with reference to the EF Act or regulations made for the purposes of the BAM Act which will replace the EF Act in due course.

By subclause (3) a reference to the EF Act in another section of the Bulk Handling Act becomes a reference to either the EF Act or the BAM Act.

Subdivision 2 – Savings and transitional provisions

Clause 71 Meaning of terms used in this Subdivision

The “grain and seed crops account” is, by reference to section 2(5)(a), a reference to the account under the BAM Act that is required to be established before the *Plant Pests and Diseases (Eradication Funds) Act 1974* (EF Act) Act can be repealed.

Clause 72 Compensation claims made before repeal

Despite the repeal of the EF Act any application for compensation under that Act that arose but was not fully dealt with before the repeal is to be dealt with as it would have been if the Act had not been repealed and then the amount is to be paid from the grain and seed crops account (the new account).

Clause 73 Transfer and payment of skeleton weed money to Grain and seeds crops account

The money in the Skeleton Weed Eradication Fund under the EF Act will be credited to the new account when that Act is repealed and the former account is then to be closed.

Under the EF Act contributions were collected by an appointed receiver (such as CBH). The receiver deducts the contribution from the amount payable to a grower. Subclause (1)(b) ensures that any contribution in the hands of the receiver is deducted as mentioned in subclause (2) and paid into the new

account. Subclause (2) applies the sections of the EF Act that require the deduction and impose a penalty for failure to comply.

Clause 74 Application of other Funds under the repealed Act

This section requires the payment to the new fund of moneys in the two other funds referred to in the EF Act.

Division 15 – Seeds Act 1981

This division repeals the *Seeds Act 1981* (**clause 75**) and deletes reference to it from the list in the schedule to the *Consumer Affairs Act 1971* of acts that prohibit or regulate the supply of goods (**clause 76**). These are Acts that prevail over the product safety provisions of the Consumer Affairs Act in the event of an inconsistency with those provisions.

Division 16 – Stock Diseases (Regulations) Act 1968

Clause 77 Repeal

Repeals the *Stock Diseases (Regulations) Act 1968*.

Clause 78 Auction Sales Act 1973, consequential amendments

The Auction Sales Act is amended to change references to an inspector under the Stock Diseases (Regulations) Act to an inspector under the BAM Act. The provisions amended relate to the inspection of records under the Auction Sales Act in relation to which an inspector is an authorized person.

Subclause (4) replaces a reference to a waybill under the Stock (Identification and Movement) Act with a reference to a waybill issued under the BAM Act.

Clause 79 Cattle Industry Compensation Act 1965, consequential amendments

Division 17 – Stock (Identification and Movement) Act 1970

Subdivision 1 – Repeal and Consequential Amendment

This subdivision repeals the *Stock (Identification and Movement) Act 1970* (**clause 80**) and removes the reference to it in the schedule to the *Soil and Land Conservation Act 1945* which lists the Acts to which that Act is supplementary (**clause 81**).

Subdivision 2 – Transitional provision

Clause 82 Brands

This clause allows registered brands and earmarks and ownership of brands and earmarks under the *Stock (Identification and Movement) Act 1970* to be recognised as registered identifiers under the BAM Act. The registrations will expire after 5 years as they do under the existing legislation.

Division 18 – Veterinary Chemical Control and Animal Feeding Stuffs Act 1976

This division repeals the *Veterinary Chemical Control and Animal Feeding Stuffs Act 1976* (**clause 83**) and deletes reference to it from the list in the schedule to the *Consumer Affairs Act 1971* of Acts that prohibit or regulate the supply of goods (**clause 84**). These are Acts that prevail over the product safety provisions of the Consumer Affairs Act in the event of an inconsistency with those provisions.

Part 3 – Amendments consequential to enactment of Biosecurity and Agriculture Management Act 2006

Clause 85 *Animal Welfare Act 2002* amended

The definition of “stock” as used in a provision of this Act is amended to refer to the BAM Act instead of the *Stock (Identification and Movement) Act 1970* which is being repealed.

Clause 86 *Cattle Industry Compensation Act 1965* amended

This Act is amended because even though it will be repealed by the BAM (Repeal and Consequential Provisions) Act it may not be repealed until sometime later than the BAM Act because its repeal is conditional on the establishment of an account for the cattle industry under the BAM Act (see clause 2(4)).

The definition of “inspector” and a reference to the Stock Diseases (Regulations) Act are changed to refer to the BAM Act.

Subclause (4) repeals section 25 of the CICA which provides for funds collected under the Act to be matched by government funds. This additional funding is no longer necessary and will not be available under the BAM scheme.

Clause 87 *Consumer Affairs Act 1971* amended

The BAM Act is included in the schedule of Acts which prevail over the product safety provisions of the Consumer Affairs Act in the event of an inconsistency.

Clause 88 *Country Areas Water Supply Act 1947* amended

This changes a reference to the Agriculture and Related Resources Protection Act to a reference to the BAM Act in a provision that excuses a person for clearing controlled land if the clearing is carried out as an essential measure in performing an obligation or carrying out a duty under the Act referred to or the Bush Fires Act.

Clause 89 *Exotic Diseases of Animals Act 1993*

Subclause (2) changes the definitions of “inspector” and “officer” under this Act to refer to an inspector under the BAM Act. The term “officer” is wider than inspector and includes a police officer (in paragraph (e) of the definition). Under the new paragraph (d) of the definition a police officer is excluded from the BAM inspectors that are “officers” because under BAM Act a police officer is only an inspector for limited purposes. Under the Exotic Diseases of Animals Act (EDA) a police officer is an “officer” for all purpose.

Section 6 of the EDA contains some general provisions about the application of that Act. Subsection (6) provides that these do not derogate from the powers of the Governor, and of the Minister, respectively, under section 10A of the *Stock Diseases (Regulations) Act 1968* or otherwise affect the operation of that section.

Section 6(6) of the EDA is repealed because the Stock Diseases (Regulations) Act is repealed but an equivalent of section 10A is inserted into the EDA itself by clause 89(4).

Clause 90 *Fish Resources Management Act 1994* amended

Subclause (2) deletes the definition of “noxious fish” in the Fish Resources Management Act (FRMA). Subclause (4) repeals Part 9 of the FRMA which deals with noxious fish. These provisions are not required because under the BAM Act noxious fish will be dealt with as declared pests.