

**BIOSECURITY ACT 1993**

1993, No. 95

**An Act to restate and reform the law relating to the exclusion, eradication, and effective management of pests and unwanted organisms**

[26 August 1993

**BE IT ENACTED** by the Parliament of New Zealand as follows:

**SECT. 1. SHORT TITLE AND COMMENCEMENT--**

- (1) This Act may be cited as the Biosecurity Act 1993.
- (2) This Act shall come into force on the 1st day of October 1993.

Status Compendium

**PART I**

**PRELIMINARY**

**SECT. 2. INTERPRETATION--**

(1) In this Act, unless the context otherwise requires,--

"Approved" means approved by the Director-General:

"Approved identification" means any method of identifying animals or animal products approved under section 50 of this Act or prescribed under this Act:

"Arrive in New Zealand",--

(a) In relation to an aircraft, means to land (whether or not on land) in New Zealand territory after a flight originating outside New Zealand territory:

(b) In relation to any other craft, means to anchor, berth, or come ashore in New Zealand territory after a voyage originating outside New Zealand territory:

(c) In relation to a person, means to reach land within New Zealand territory after a flight or voyage originating outside New Zealand territory:

"Authorised person" means a person for the time being appointed an authorised person under section 103 of this Act:

["Authority"]

{ Editorial Note: "Authority": Definition inserted, to come into force by Order in Council under 1996, No. 30, s.149. The inserted definition is listed below for reference.

" 'Authority' means the Environmental Risk Management Authority established under the Hazardous Substances and New Organisms Act 1996:". }

"Biosecurity clearance" means a clearance under section 26 of this Act for the entry of goods into New Zealand:

"Biosecurity control area" means a place that is--

(a) Part of a designated port of entry; and

(b) By written agreement with the port's operator, under the control of the Director-General for the purposes of this Act:

{ Editorial Note: "Biosecurity control area": Definition repealed and substituted, to come into force by Order in Council under 1996, No. 30, s.149. The substituted definition is listed below for reference.

" 'Biosecurity control area' means--

"(a) A place that is--

"(i) Part of a designated port of entry; and

"(ii) By written agreement with the port's operator, placed under the control of the Director-General for the purposes of this Act; or

"(b) Where a craft arrives in New Zealand at a place other than a designated port of entry, a place that is controlled by the Director-General for such time as is necessary to allow the processing of goods from that craft for entry to New Zealand in accordance with the provisions of this Act:". }

"Chief executive" means the head of a Department; and includes a chief executive appointed under the State Sector Act 1988:

"Chief technical officer" means a person appointed a chief technical officer under section 101 of this Act:

"Confine" means to hold in a quarantine facility:

"Consultation" includes actions taken before the enactment of this Act in anticipation of its enactment; and "consult" has a corresponding meaning:

"Containment condition that is still operative", at any time, means a condition of a kind authorised by section 13 (2) (ab) (i) of the Animals Act 1967--

(a) In the case of a condition requiring an organism to be held indefinitely, where the condition has not before that time been revoked; and

(b) In the case of a condition requiring an organism to be held for a specified period, where the period has not before that time expired; and

(c) In the case of a condition requiring an organism to be held until the happening of a specified event, where the event has not before that time happened:

"Containment facility" means a place so designated under section 39 of this Act:

"Controlled area" means an area for the time being declared under subsection (2) of section 131 of this Act to be an area that is controlled for the purposes of that section:

"Conveyance" includes any craft, truck, cargo container, horse-box, wagon, cart, dray, cage, kennel, or vehicle that is or has been used for the conveyance of, or has come into contact with, any organism or organic material:

"Costs and benefits" includes costs and benefits of any kind, whether monetary or non-monetary:

"Craft" includes any aircraft, ship, boat, or other machine or vessel used or able to be used for the transportation of people or goods, or both, by air or sea:

"Department" has the same meaning as in the State Sector Act 1988:

"Designated port of entry" means a port that is for the time being designated under section 87 (1) of this Act an approved place of first arrival for craft arriving in New Zealand:

"Director-General" means the chief executive of the Ministry:

"Environment" includes--

(a) Ecosystems and their constituent { sic ? constituent } parts, including people and their communities; and

(b) All natural and physical resources; and

(c) Amenity values; and

(d) The aesthetic, cultural, economic, and social conditions that affect or are affected by any matter referred to in paragraphs (a) to (c) of this definition:

"Exclusive economic zone" means the zone of that name described in section 9 of the Territorial Sea and Exclusive Economic Zone Act 1977:

"Goods" means all kinds of moveable personal property: "Import", subject to section 4 of this Act, means bring within New Zealand territory from outside that territory; and "imported" has a corresponding meaning:

**"Import health permit"** means a permit under section 20 (1) of this Act; and, in relation to any risk goods, means an import health permit issued in respect of those goods, or in respect of risk goods of a kind or description to which those goods belong:

**"Import health standard"** means a statement approved under section 22 (1) of this Act by a chief technical officer of the conditions that must, if an import is to be made, be met in the country of origin or export, during transit, during importation and quarantine, and after introduction:

**"Inspector"** means a person who is appointed an inspector under section 103 of this Act:

**"Local authority"** means a regional council or territorial authority:

**"Management agency"** means the Department, authority, or body corporate specified in a pest management strategy as the agency given the task of implementing the strategy:

**"Marae"** includes the area of land on which all buildings such as the wharenui (meeting house), the wharekai (dining room), ablution blocks, and any other associated buildings are situated:

**"Minister"** means a Minister of the Crown; and,--

(a) In relation to a national pest management strategy, means the Minister who recommended the making of the order under section 68 of this Act approving it; and

(b) In relation to a proposed national pest management strategy, means the Minister who, as the case requires, is proposing it or has been asked or required to notify it:

**"Ministry"** means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act:

**"Natural resources"** means--

(a) Organisms of all kinds; and

(b) The air, water, and soil in or on which any organism lives or may live; and

(c) Landscape and land form; and

(d) Geological features; and

(e) Systems of interacting living organisms and their environment:

[New Organism]

{ Editorial Note: "New Organism": Definition inserted, to come into force by Order in Council under 1996, No. 30, s.249. The inserted definition is listed below for reference.

" 'New organism' has the same meaning as in section 2 of the Hazardous Substances and New Organisms Act 1996:" }

**"New Zealand territory"** means the territory enclosed by the outer limits of the territorial sea (as described in section 3 of the Territorial Sea and Exclusive Economic Zone Act 1977):

**"Occupier"**,--

(a) In relation to any place physically occupied by any person, means that person; and

(b) In relation to any other place, means the owner of the place; and

(c) In relation to any place, includes any agent, employee, or other person, acting or apparently acting in the general management or control of the place:

**"Organic material"**, subject to subsection (2) of this section, means any material that is or contains--

(a) Material derived from an organism; or

(b) An excretion or secretion of an organism,--

(whether or not it also contains material derived from a human being or contains the secretions of a human being):

**"Organism"**--

(a) Does not include a human being or a genetic structure derived from a human being;

(b) Includes a micro-organism:

(c) Subject to paragraph (a) of this definition, includes a genetic structure

that is capable of replicating itself (whether that structure comprises all or only part of an entity, and whether it comprises all or only part of the total genetic structure of an entity):

(d) Includes an entity (other than a human being) declared by the Governor-General by Order in Council to be an organism for the purposes of this Act:

(e) Includes a reproductive cell or developmental stage of an organism:  
{ Editorial Note: Particles which are prions are organisms for the purposes of this Act. See the Biosecurity (Organisms) Order 1997 (S.R. 1997/17/2). }

"Other department" means a department of State other than the Ministry:

"Other Minister" means a Minister other than the responsible Minister:

"Person" includes the Crown, a corporation sole, and a body of persons (whether corporate or unincorporate):

"Pest" means an organism specified as a pest in a pest management strategy:

"Pest agent", in relation to any pest, means any organism capable of--

(a) Helping the pest replicate, spread, or survive; or

(b) Interfering with the management of the pest:

"Pest management strategy" and "strategy" mean a strategy, approved under Part V of this Act, for the management or eradication of a particular pest or pests:

"Place" includes any building, conveyance, craft, land, or structure, and the bed and waters of the sea and any canal, lake, pond, river, or stream:

"Port" includes an airport, anchorage, harbour, and wharf:

"Prescribed" means prescribed by regulations made under this Act:

"Principal officer" means the principal administrative officer of a regional council; and--

(a) In relation to a regional council, means the principal officer of that council; and

(b) In relation to a region, means the principal officer of the region's regional council;--

and includes an acting principal officer:

"Quarantine area" means a place so designated under section 41 of this Act:

"Quarantine facility" means a place so designated under section 39 of this Act:

"Reasonable charge" means a charge calculated by the Director-General having regard to the direct and indirect costs of performing the activity concerned:

"Region", in relation to a unitary authority, means the region in respect of which it has the functions, duties, and powers of a regional council:

"Regional council" includes the Chatham Islands [] Council and a unitary authority:

"Regulations" means regulations made under this Act:

"Responsible Minister" means the Minister who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act:

"Restricted organism" means an organism (not being uncleared goods) for which a permit under section 13 of the Animals Act 1967 has been issued subject to a containment condition that is still operative; and includes--

(a) Any organism that is the progeny, of any generation, of any restricted organism (whether or not the restricted organism from which the progeny is descended is still living); and

(b) A reproductive cell or developmental stage of a restricted organism:  
{ Editorial Note: "Restricted organism": Definition repealed and substituted, to come into force by Order in Council under 1996, No. 30, s.149. The substituted definition is listed below for reference.

" 'Restricted organism' means any organism for which a containment approval

has been granted in accordance with the Hazardous Substances and New Organisms Act 1996 (including any approval deemed to have been so granted under sections 254 (1), 254 (3), 254 (8) (a), 255 (1), 255 (2), 256, 258 (1), and 258 (3) of that Act):" }

**"Restricted place"** means any premises that an inspector or an authorised person has declared to be a restricted place under section 130 of this Act:

**"Risk goods"** means any organism, organic material, or other thing or substance, that (by reason of its nature or origin) it is reasonable to suspect to constitute, contain, or otherwise pose a risk that its presence in New Zealand will result in--

- (a) Exposure of organisms in New Zealand to damage, disease, loss, or harm;
- or
- (b) Interference with the diagnosis, management, or treatment, in New Zealand, of pests or unwanted organisms:

**"Territorial authority"** has the same meaning as in section 2 (1) of the Local Government Act 1974:

**"Transitional facility"** means a place--

- (a) That is a biosecurity control area; or
- (b) That is a quarantine facility or quarantine area; or
- (c) That is under the control of New Zealand Post Limited, and (by agreement between an inspector and that company) used, for the purposes of this Act, for opening and examining the contents of mail that has arrived in New Zealand from outside New Zealand; or
- (d) In relation to any uncleared goods, that is a place to which an inspector has authorised those goods to proceed--
  - (i) For processing; or
  - (ii) For holding pending processing; or
  - (iii) For holding pending clearance; or
- (e) Where approved means of destroying or treating risk goods are situated:

**"Treatment"** means the application to any thing of any approved method, or approved combination of methods, intended to reduce to an approved extent the risk of introduction or spread of any pest or unwanted organism suspected to be present in the thing:

**"Unauthorised goods"** means any goods that are--

- (a) Uncleared goods in a place that is not a transitional facility (other than goods that, with the authority of an inspector, are--
  - (i) Proceeding from one transitional facility to another; or
  - (ii) Being exported from New Zealand); or
- (b) Uncleared goods that are in a transitional facility to which those goods proceeded, without the authority of an inspector, from some other transitional facility, and have not later received the authority of an inspector to remain there; or
- (c) A restricted organism in a place that is not a containment facility (other than an organism that--
  - (i) With the authority of an inspector, is proceeding, from the transitional facility where a biosecurity clearance was given for it, to its containment facility or another transitional facility; or
  - (ii) With the authority of an inspector, is proceeding, from that facility or a transitional facility to which it has proceeded with the authority of an inspector, to a place that is a transitional facility, that containment facility, or a new containment facility; or
  - (iii) Is in a transitional facility to which it has proceeded with the authority of an inspector; or
  - (iv) With the authority of an inspector, is being exported from New Zealand); or
- (d) A restricted organism that is in a containment facility to which it proceeded without the authority of an inspector, and has not later received the authority of an inspector to remain there:

**"Uncleared goods"** means imported goods for which no biosecurity clearance has been given:

**"Unitary authority"** means a territorial authority that, by virtue of section 37N (1) of the Local Government Act 1974, has the functions, duties, and powers of a

regional council in respect of a region under its control:

**"Unwanted organism"** means any organism that a chief technical officer believes is capable or potentially capable of causing unwanted harm to any natural resources:

{ Editorial Note: "Unwanted organism: Definition repealed and substituted, to come into force by Order in Council under 1996, No. 30, s.149. The substituted definition is listed below for reference.

" 'Unwanted organism' means any organism that a chief technical officer believes is capable or potentially capable of causing unwanted harm to any natural resources; and--

"(a) Includes--

"(i) Any new organism if the Authority has declined approval to import that organism; and

"(ii) Any organism specified in the Second Schedule to the Hazardous Substances and New Organisms Act 1996; but

"(b) Does not include any organism approved for importation under the Hazardous Substances and New Organisms Act 1996, unless--

"(i) The organism is an organism which has escaped from a containment facility; or

"(ii) A chief technical officer, after consulting the Authority and taking into account any comments made by the Authority concerning the organism believes that the organism is capable or potentially capable of causing unwanted harm to any natural resources:" }

**"Working day"** means any day except--

(a) A Saturday, a Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, and Waitangi Day; and

(b) A day in the period commencing on the 20th day of December in any year and ending with the 15th day of January in the following year.

(2) No goods are an organic material by virtue only of being or containing cardboard, coal, paper, petroleum oil, or a substance derived from coal or petroleum oil.

(3) For the purposes of this Act any organism may be specified, whether in a pest management strategy or for any other purpose, by reference to--

(a) Its scientific name; or

(b) The name of a disease it causes; or

(c) Both.

(4) Parts IV to VI of this Act shall apply to pest agents as if they are pests.

**SECT. 46. DUTY TO REPORT NOTIFIABLE ORGANISMS--**

**(1) Every person who--**

- (a) At any time suspects the presence of an organism in any place in New Zealand; and**
- (b) Suspects that it is for the time being declared to be a notifiable organism under subsection (1) or subsection (2) of section 45 of this Act; and**
- (c) Believes that it is not at the time established in that place; and**
- (d) Has no reasonable grounds for believing that the chief technical officer is aware of its presence or possible presence in that place at that time,--**

**shall without unreasonable delay report to the chief technical officer its presence or possible presence in that place at that time.**

**(2) Every person who--**

- (a) At any time suspects the presence of an organism in a place in the region, or in any part of the region, of a regional council; and**
- (b) Suspects that it is for the time being declared to be an organism notifiable within the region or part under subsection (3) of section 45 of this Act; and**
- (c) Believes that it is not at that time established in that place; and**
- (d) Has no reasonable grounds for believing that the chief technical officer is aware of its presence or possible presence in that place at that time,--**

**shall without unreasonable delay report to the chief technical officer its presence or possible presence in that place at that time.**

## ENFORCEMENT, OFFENCES, AND PENALTIES

### SECT. 154. OFFENCES--

Every person commits an offence against this Act who--

- (a) Threatens, assaults, or intentionally obstructs or hinders,--
  - (i) An inspector, authorised person, or accredited person; or
  - (ii) An assistant of an inspector, authorised person, or accredited person,--  
in the exercise or performance of a function, power or duty under this Act, the regulations, a pest management strategy, or a declaration of emergency under section 144 of this Act:
- (b) In connection with the purposes of this Act,--
  - (i) Makes or gives to an inspector or authorised person, or an assistant of an inspector or authorised person, a statement or information that the person knows to be false or misleading in a material particular; or
  - (ii) In circumstances where the person is required to provide information, wilfully withholds relevant information from an inspector or authorised person, or an assistant of an inspector or authorised person; or
  - (iii) In circumstances where the person is required to make a return or declaration or give a certificate, knowingly makes or gives a return, declaration, or certificate that is false or misleading in a material particular:
- (c) Personates or falsely represents himself or herself to be an inspector, authorised person, accredited person, assistant, or other person authorised to exercise a function, power, or duty conferred or imposed by or under this Act:
- (d) Without reasonable excuse, fails to comply with a reasonable direction given to that person in accordance with and for the purposes of this Act by an inspector or authorised person, or the assistant of an inspector or authorised person:
- (e) Without reasonable excuse, fails to comply with a reasonable requirement made of that person in accordance with and for the purposes of this Act by an inspector or authorised person, or the assistant of an inspector or authorised person:
- (f) Has unauthorised goods in his or her possession or control, knowing that they are unauthorised goods:
- (g) Buys, sells, exchanges, or otherwise acquires or disposes of, unauthorised goods--
  - (i) Knowing that they are unauthorised goods; or
  - (ii) Knowing that they may be unauthorised goods, and reckless as to whether they are or not:
- (h) Knowing that goods are risk goods that have been seized by, or are otherwise under the control of, an inspector or authorised person,--
  - (i) Makes an alteration to the condition of the goods; or
  - (ii) Unpacks or repacks the goods,--  
otherwise than with and in accordance with the permission of an inspector or authorised person:
- (i) Knowing that goods are risk goods that--
  - (i) Have been seized by, or are otherwise under the control of, an inspector or authorised person; and
  - (ii) Are stored in a place where an inspector or authorised person has directed that they should be stored,--  
removes the goods from the place otherwise than with and in accordance with the permission of an inspector or authorised person:
- (j) Without the permission of an inspector or authorised person, takes or carries away or otherwise converts to his or her own use any goods, knowing that they are risk goods that have been seized under this Act:
- (k) Without the permission of an inspector or authorised person, exhumes the carcass of any organism or any other risk goods, knowing it or them to have been buried as required by a direction given under this Act:
- (l) Knowing that a notice under section 130 (1) of this Act is in force in relation to a place, without the permission of an inspector or authorised person,--
  - (i) Removes any organism, organic material, or risk goods from the place; or
  - (ii) Removes from the place any goods that have while in the place been in contact with any organism, organic material, or risk goods; or
  - (iii) Introduces any goods into the place:
- (m) Fails or refuses to comply with any of sections 29, 46, 52, 53, and 134 of this Act:
- (n) Fails or refuses to comply with any of sections 17, 18, 25, 30, 31, 41 (5), 51 (1), and 51 (2) of this Act:

- (o) Fails or refuses to comply with any of sections 19, 34, 35, 36, 37 (6), 40 (5), 43, 47, 48, 51 (3), 121 (2), and 132 (9) of this Act:**
- (p) Having (while in a biosecurity control area) been asked by an inspector to answer any question that is necessary for the inspector to ascertain the presence, nature, origin, or itinerary, of any risk goods,--**
  - (i) Fails or refuses to answer it within a reasonable time of its being asked; or**
  - (ii) Fails or refuses to answer it completely within a reasonable time of its being asked; or**
  - (iii) Wilfully gives a false or misleading answer.**

**SECT. 157. PENALTIES--**

- (1) Every person who commits an offence against any of paragraphs (f), (g), (h), (i), (j), (k), (l), and (m) of section 154 of this Act is liable on conviction--**

  - (a) In the case of an individual person, to imprisonment for a term not exceeding 5 years, a fine not exceeding \$100,000, or both:**
  - (b) In the case of a corporation, to a fine not exceeding \$200,000.**
  
- (2) Every person who commits an offence against any of paragraphs (a), (b), (c), (d), (e), and (n) of section 154 of this Act is liable on conviction--**

  - (a) In the case of an individual person, to imprisonment for a term not exceeding 12 months, a fine not exceeding \$15,000, or both:**
  - (b) In the case of a corporation, to a fine not exceeding \$75,000.**
  
- (3) Subject to section 159 of this Act, every person who commits an offence against either of paragraphs (o) and (p) of section 154 of this Act is liable on conviction--**

  - (a) In the case of an individual person, to a fine not exceeding \$1,000:**
  - (b) In the case of a corporation, to a fine not exceeding \$5,000.**
  
- (4) Every person who commits an offence against any regulations made under this Act shall be liable on summary conviction to a fine not exceeding \$1,000.**

## IMPORTATION OF RISK GOODS

### SECT. 16. PURPOSE OF PART III--

The purpose of this Part of this Act is to provide for the effective management of risks associated with the importation or introduction of risk goods.

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## ARRIVAL OF CRAFT

### SECT. 17. NOTICE OF INTENDED ARRIVAL OF CRAFT IN NEW ZEALAND--

(1) The person in charge of any craft proceeding to New Zealand territory from outside New Zealand territory shall, unless there are reasonable grounds for not doing so,--

(a) Give the Director-General notice of when and where, approximately, the craft will enter New Zealand territory, and--

(i) The designated port of entry where it is intended that the craft will first arrive in New Zealand; or

(ii) If it is impossible or impracticable to proceed to any designated port of entry, the destination where it is intended that the craft will first arrive in New Zealand; and

(b) Proceed directly to, and arrive in New Zealand at, that port or destination.

(2) Where--

(a) Any person in charge of any craft has given the Director-General notice under subsection (1) of this section or this subsection; and

(b) The craft has not arrived in New Zealand since the notice was given; and

(c) The person learns that it is impossible or impracticable to proceed to the designated port of entry or destination notified,--

the person shall, unless there are reasonable grounds for not doing so,--

(d) Give the Director-General notice of where, approximately, the craft is, and--

(i) Notice of a designated port of entry where it is now intended that the craft will first arrive in New Zealand, if it is possible and practicable to proceed to such a port; or

(ii) Notice of the destination where it is now intended that the craft will first arrive in New Zealand, if it is impossible or impracticable to proceed to any designated port of entry; and

(e) Proceed directly to, and arrive in New Zealand at, that port or destination.

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### SECT. 18. ARRIVAL OF CRAFT IN NEW ZEALAND--

(1) The person in charge of any craft that arrives at a place in New Zealand--

(a) Shall, if--

(i) The person has not notified the Director-General under section 17 of this Act; or

(ii) The place is not the port or destination notified (or, as the case may be, last notified) under section 17 of this Act,--  
give the Director-General notice of where and (approximately) when the craft arrived; and

(b) Shall prevent risk goods from leaving the craft without the permission of an inspector.

(2) The person in charge of any such craft shall, if so required by an inspector, pay a bond for such amount not exceeding \$10,000 as the inspector may require to secure due compliance with subsection (1) (b) of this section.

Cf. 1967, No. 50, s.18

**SECT. 19. PERSONS IN CHARGE OF CERTAIN CRAFT TO OBEY DIRECTIONS OF INSPECTOR OR AUTHORISED PERSON--**

- (1) This section applies to a craft, and place in New Zealand, if--
- (a) The craft arrives in New Zealand there; or
  - (b) The craft is carrying risk goods that it was carrying when it arrived in New Zealand at some other place.
- (2) Where this section applies to a craft and place, the person in charge of the craft shall--
- (a) Obey every reasonable direction given by an inspector as to--
    - (i) The movement of the craft in the place; or
    - (ii) The unloading or discharge of risk goods or the disembarkation of crew or passengers from the craft; or
    - (iii) Measures (including any bond required under section 18 (2) of this Act) to ensure that any risk goods not intended to be unloaded or discharged from the craft are maintained in a secure place under the control of that person; and
  - (b) Within the required time or times, deliver to an inspector a report, in such manner and form, and containing such particulars verified by declaration, and with such supporting documents, as may be required; and
  - (c) Answer all questions relating to the craft or its cargo, crew, passengers, stores, or voyage, asked by an inspector;--
- and every person disembarking from the craft shall, on request by an inspector, make his or her baggage available for inspection by the inspector.

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**IMPORT HEALTH PERMITS**

**SECT. 20. IMPORT HEALTH PERMITS--**

- (1) Subject to section 21 of this Act, the Director-General shall issue to any person who applies to the Director-General for it a health permit for the purposes of the importation of any risk goods from any country.
- (2) An import health permit--
- (a) May be issued unconditionally, or subject to any conditions the Director-General thinks fit;
  - (b) May relate to--
    - (i) A single importation; or
    - (ii) A number of importations specified in it; or
    - (iii) Any number of importations, until a condition or day specified in it is fulfilled or reached; or
    - (iv) Unlimited importation;
  - (c) Without the prior written consent of the Director-General,--
    - (i) Is not transferable; and
    - (ii) Cannot pass by operation of law.
- (3) The issue or possession of an import health permit does not limit or affect section 27 or section 28 of this Act, or any requirement or restriction imposed by the Animals Act 1967, the Apiaries Act 1969, or the Plants Act 1970, or by any enactment passed in substitution for any of those Acts or for any provision of any of those Acts.  
{ Editorial Note: s.20 (3) repealed and substituted, to come into force by Order in Council under 1996, No. 30, s.149. The substituted s.20 (3) is listed below for reference.  
"(3) The issue or possession of an import health permit does not limit or affect section 27 or section 28 of this Act." }

Cf. 1967, No. 50, s.13

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## **SECT. 21. CRITERIA FOR ISSUE OF IMPORT HEALTH PERMITS--**

(1) The Director-General shall not issue an import health permit in respect of any risk goods (or risk goods of any kind or description) proposed to be imported from any country unless there is in force an import health standard issued under section 22 of this Act in respect of risk goods of the kind or description to which those goods belong (or risk goods of that kind or description) and the country from which they are to be imported.

(2) In determining whether to issue an import health permit in respect of any risk goods (or risk goods of any kind or description) proposed to be imported from any country, the Director-General shall have regard to the following matters:

- (a) The likelihood that risk goods of the kind or description to which those goods belong (or risk goods of that kind or description) may bring unwanted organisms into New Zealand and:
- (b) The nature and possible effect (on people, the New Zealand environment, and the New Zealand economy) of any unwanted organisms that risk goods of the kind or description to which those goods belong (or risk goods of that kind or description) may bring into New Zealand:
- (c) New Zealand's international obligations:
- (d) Any other matters the Director-General thinks relevant.

Cf. 1967, No. 50, s.13

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## **SECT. 22. IMPORT HEALTH STANDARDS--**

(1) The Director-General may, on the recommendation of a chief technical officer, issue an import health standard relating to risk goods of a specified kind or description imported from a specified country, specified countries, or countries of a specified kind or description; and may amend or revoke any import health standard.

(2) The Director-General shall maintain a register of the import health standards for the time being issued under subsection (1) of this section, and of the amendments to all such standards.

(3) The register shall be available for public information and inspection at the office of the Director-General--

- (a) During normal office hours; and
- (b) Upon payment of a reasonable charge (if any).

Status Compendium

## **SECT. 23. REVOCATION AND VARIATION OF IMPORT HEALTH PERMITS--**

(1) The Director-General may revoke or vary an import health permit at any time on any of the following grounds:

- (a) A change in the circumstances of the proposed importation so far as they relate to any of the matters referred to in section 21 (2) of this Act:
- (b) The provision of false or misleading information in the application for the permit:
- (c) The receipt by the Director-General of further information that requires that the application should be reconsidered in the public interest.

(2) Before revoking or varying a permit under this section, the Director-General shall inform the holder of the permit of the action the Director-General has under consideration and give the holder a reasonable opportunity to make representations.

(3) Where any decision is made under this section by any person acting under the delegated authority of the Director-General, the holder of the permit shall be entitled to have the decision reviewed by the Director-General, or by a person designated by the Director-General who was not involved in the making of the decision.

(4) Notwithstanding subsection (2) of this section, if the Director-General has reasonable grounds to believe that the circumstances necessitate action to be taken urgently with regard to the revocation or variation of the permit, the Director-General may revoke or vary the permit without taking the preliminary action otherwise required by subsection (2)

of this section.

(5) If the Director-General revokes or varies a permit under this section, the Director-General shall give notice of the revocation or variation to the holder of the permit.

Cf. 1967, No. 50, s.13

Status Compendium

## **SECT. 24. EXEMPTIONS FROM REQUIREMENT FOR IMPORT HEALTH PERMIT--**

(1) After taking into consideration the matters referred to in section 21 (2) of this Act, the Minister may by notice in the Gazette exempt from the requirement to have an import health permit risk goods of a specified kind or description imported from a specified country, or for a specified purpose or destination in New Zealand.

(2) The Minister may grant an exemption under this section subject to such conditions as the Minister thinks fit which may take effect before or after importation.

(3) The Minister may at any time, by notice in the Gazette, revoke or vary an exemption under this section; but in the case of a variation, the notice shall specify whether the Minister considers the variation significant.

(4) The Minister shall review every exemption granted under this section not later than 5 years after the most recent of the following events:

(a) The granting of the exemption:

(b) The publication of a notice in the Gazette--

(i) Varying the exemption; and

(ii) Specifying that the Director-General considered the variation significant:

(c) The completion of a review of the exemption under this subsection.

(5) The Director-General shall maintain a register of exemptions granted under this section which shall be available at the office of the Director-General for public information and inspection during normal office hours on payment of a reasonable charge.

Status Compendium

## **CLEARANCE OF RISK GOODS**

### **SECT. 25. RISK GOODS TO BE CLEARED FOR ENTRY INTO NEW ZEALAND--**

(1) No person shall cause or permit any uncleared goods imported on any craft to leave that craft, except to proceed to a transitional facility.

(2) No person shall cause or permit any uncleared goods that are in a transitional facility to leave that facility, except--

(a) To proceed, with the authority of an inspector, to another transitional facility; or

(b) With the authority of an inspector, to be exported from New Zealand.

Status Compendium

### **[SECT. 25A. ORGANISMS ILLEGALLY PRESENT IN NEW ZEALAND--**

{ Editorial Note: s.25A inserted, to come into force by Order in Council under 1996, No. 30, s.149. The inserted s.25A is listed below for reference.

**"25A. ORGANISMS ILLEGALLY PRESENT IN NEW ZEALAND--**

**"Where, before the date of commencement of the Hazardous Substances and New Organisms Act 1996, any organism was present in New Zealand, but, is not provided for in Part XVI of that Act, that organism shall be deemed to be uncleared goods for the purposes of this Act; and sections 26 to 28 of this Act shall apply accordingly, with all necessary modifications." }**

## Status Compendium

### SECT. 26. CLEARANCES--

Subject to sections 27 and 28 of this Act, any inspector may give a clearance for the entry into New Zealand of any goods.

## Status Compendium

### SECT. 27. INSPECTOR TO BE SATISFIED OF CERTAIN MATTERS--

An inspector shall not give a biosecurity clearance for any goods unless satisfied that the goods are not risk goods; or satisfied--

(a) That--

(i) There is in force an import health permit in respect of the goods (or goods of a kind or description to which the goods belong), and the goods comply with the requirements of that permit and the associated import health standard; or

(ii) The goods comply with the requirements of an exemption under section 24 of this Act; or

(iii) The goods comply with regulations made under this Act providing for the importation without an import health permit of goods of a kind or description to which those goods belong; and

(b) That there are no discrepancies in the documentation accompanying the goods (or between that documentation and those goods) that suggest that it may be unwise to rely on that documentation; and

(c) In the case of an organism, that the goods display no symptoms that may be a consequence of harbouring unwanted organisms; and

(d) That the goods display no signs of harbouring organisms that may be unwanted organisms; and

(e) There has been no recent change in circumstances, or in the state of knowledge, that makes it unwise to issue a clearance.

## Status Compendium

### SECT. 28. RESTRICTIONS ON GIVING CLEARANCES--

(1) An inspector shall not give a biosecurity clearance for goods that are or contain--

(a) An animal of a kind specified in section 14 of the Animals Act 1967 immediately before the commencement of this Act; or

(b) A reproductive cell or developmental stage of such an animal; or

(c) A plant of a kind specified in the Second Schedule to the Introduction and Quarantine of Plants Regulations 1973 immediately before the commencement of this Act; or

(d) A reproductive cell or developmental stage of such a plant.

(2) An inspector shall not give a biosecurity clearance for goods that are or contain an animal not established in New Zealand, or a reproductive cell or developmental stage of such an animal, unless there is in force in respect of those goods a permit under section 13 of the Animals Act 1967.

(3) An inspector shall not give a biosecurity clearance for goods that are or contain a plant not established in New Zealand, or a reproductive cell or developmental stage of such a plant, unless the Director-General has approved the clearance of such goods (or goods of a kind or description that includes such goods).

(4) Subsections (1A) and (1B) of section 13 of the Animals Act 1967 shall apply to the approval by the Director-General of the clearance of goods for the purposes of subsection

(3) of this section as if--

(a) Every reference in those subsections to an import permit is a reference to such an approval; and

(b) Every reference in those subsections to the Minister is a reference to the Director-General; and

(c) Every reference in those subsections to animal health is a reference to animal and plant health; and

(d) Subject to paragraph (c) of this subsection, every reference in those subsections to

an animal or animals is a reference to the plant or plants concerned.

{ Editorial Note: s.28 repealed and s.28 & s.28A substituted, to come into force by Order in Council under 1996, No. 30, s.149. The substituted s.28 is listed below for reference.

**"28. RESTRICTIONS ON GIVING CLEARANCES--**

**"(1) An inspector shall not give a biosecurity clearance for goods that are or contain an organism specified in the Second Schedule to the Hazardous Substances and New Organisms Act 1996 or for a new organism other than a restricted organism.**

**"(2) Where any new organism is an organism for which--**

**"(a) The Authority has given approval for importation into containment in accordance with section 45 of the Hazardous Substances and New Organisms Act 1996; and**

**"(b) There is in existence a containment facility approved as meeting the standard set by the Authority; and**

**"(c) The organism is able to go to that facility--**

**any inspector may authorise that organism to go to that containment facility. }**

Status Compendium

**[SECT. 28A. DEALING WITH SUSPECTED NEW ORGANISM--**

{ Editorial Note: s.28 repealed and s.28 & s.28A substituted, to come into force by Order in Council under 1996, No. 30, s.149. The substituted s.28A is listed below for reference.

**"28A. DEALING WITH SUSPECTED NEW ORGANISM--**

**"(1) Any inspector may seize any organism which the Inspector has reason to believe may be a new organism.**

**"(2) The provision of sections 116 and 117 of this Act shall apply to any organism seized under subsection (1) of this section as if that organism were unauthorised goods.**

**"(3) A chief technical officer may permit an organism seized under this section to be held in the custody of the Director-General for so long as is necessary for the importer to apply to the Authority for a determination under section 26 of the Hazardous Substances and New Organisms Act 1996 that the organism is, or is not, a new organism.**

**"(4) Where an organism is held in accordance with subsection (3) of this section, the estimated costs and expenses of the custody and maintenance of the organism shall be paid in advance to the Director-General by the importer.**

**"(5) When the Director-General's custody of an organism ceases, the Director-General shall calculate the actual and reasonable costs and expenses of holding the organism and, if those actual and reasonable costs,--**

**"(a) Exceed the amount paid in accordance with subsection (4) of this section, the balance of the costs and expenses shall be recoverable as a debt due to the Crown from the importer:**

**"(b) Are less than the amount paid in accordance with subsection (4) of this section, the overpayment shall be refunded to the importer."**

**"(6) Where any organism held under subsection (3) of this section is declared to be a new organism, the chief technical officer may, either generally or in any particular case, given any reasonable directions as to the disposal of, or any other dealing with, that organism, but shall not give a biosecurity clearance for that organism." }**

Status Compendium

**SECT. 29. RESTRICTED ORGANISMS TO BE CONTAINED--**

**No person shall cause or permit any restricted organism that is in a transitional facility or a containment facility to leave that facility, except--**

**(a) To proceed, with the authority of an inspector, to a transitional facility or a containment facility; or**

**(b) With the authority of an inspector, to be exported from New Zealand.**

## INSPECTIONS, DECLARATIONS, ETC.

### SECT. 30. UNCLEARED IMPORTS--

- (1) An inspector may require people arriving in New Zealand--
- (a) To make declarations in a specified manner as to whether they have any specified goods in their possession as part of their personal effects or baggage; and
  - (b) To surrender to an inspector control of any uncleared imported risk goods to enable them to be disposed of in accordance with this Act.
- (2) Every person arriving in New Zealand shall permit any inspector to inspect and examine any specified goods in his or her possession as part of his or her personal effects or baggage, and afford to the inspector all reasonable facilities and assistance in carrying out the inspection and examination.

Cf. 1967, No. 50, s.22

Status Compendium

### SECT. 31. BOARDING OF CRAFT--

- [(1) Subject to subsection (2) of this section, an inspector may, for the purpose of ascertaining the presence of risk goods, require the person in charge of--
- (a) Any craft, used for the transportation of people or goods, or both, by air, that is within New Zealand territory; or
  - (b) Any craft, used for the transportation of people or goods, or both, by sea, that is within the area of sea adjacent to New Zealand and bounded by the outer limits of the contiguous zone of New Zealand--
- to--
- (c) Bring the craft to for boarding on being so directed by an inspector; and
  - (d) By all reasonable means, facilitate the boarding of the craft by an inspector.]
- (2) A craft carrying an inspector who gives a direction under this section must be clearly identifiable as being a craft in the service of the Crown.

Status Compendium

### SECT. 32. POWERS RELATING TO CRAFT--

- (1) Subject to subsection (2) of this section, any person who has the power under any provision in this Act to enter any craft and who has reasonable grounds to suspect that a craft in New Zealand territory contains any unwanted organism may direct the master or other person in charge of the craft to--
- (a) Move it to and stop it at any place within New Zealand territory; or
  - (b) Move it and keep it outside New Zealand territory; or
  - (c) Take any specified action on or in respect of the craft.
- (2) Before exercising a power conferred by subsection (1) of this section, the person who proposes to exercise the power shall consult the chief executives of--
- (a) The [New Zealand Customs Service]; and
  - (b) The Ministry of Forestry.

Status Compendium

### SECT. 33. RISK GOODS ON BOARD CRAFT--

- (1) Where there are any risk goods on board a craft that has entered New Zealand territory from outside New Zealand territory, an inspector may direct the master or other person in charge of the craft to take (as the master or person thinks fit) 1 of the following

steps:

- (a) Deal with the goods in a manner specified by the inspector while the craft is in New Zealand territory; or
- (b) Move the craft outside New Zealand territory (immediately, or within a period specified by the inspector); or
- (c) Destroy the goods in a place and manner approved by the inspector for the purpose.

(2) Subject to subsection (3) of this section, where the master or person in charge of a craft fails or refuses to comply with a direction under subsection (1) of this section, any inspector may--

- (a) Direct the master or other person in charge of the craft to move the craft outside New Zealand territory (immediately, or within a period specified by the inspector); or
- (b) Seize and destroy the risk goods concerned.

(3) Where--

- (a) An inspector gives a direction under subsection (1) of this section in respect of goods of a particular kind or description on board a craft of a particular kind or description; and
- (b) There are for the time being in force under this Act regulations prescribing the manner in which risk goods of that kind or description should be dealt with while on board a craft of that kind or description,--

compliance with those regulations shall be deemed to be a sufficient compliance with the direction.

(4) Nothing in this section limits or affects the generality of section 32 of this Act.

Status Compendium

#### SECT. 34. DISEMBARKATION--

(1) For the purpose of ascertaining the presence of or controlling any risk goods, a person on board a craft that has arrived in New Zealand shall obey every reasonable direction given to the person concerning disembarkation--

- (a) By an inspector; or
- (b) On the direction of an inspector, by the person in charge of the craft or a crew member of the craft.

(2) Unless otherwise directed by an inspector, every person arriving in New Zealand shall--

- (a) Go directly to a biosecurity control area; and
- (b) Remain there for such reasonable time as an inspector may require to ascertain the presence of any risk goods.

(3) This subsection applies to a person and a biosecurity control area if the person is required by subsection (2) of this section to go directly to the biosecurity control area and remain there for such reasonable time as an inspector may require to ascertain the presence of any risk goods.

(4) An inspector, and any person the inspector calls to the inspector's assistance, may use such force as is reasonably necessary to--

- (a) Compel to go to the biosecurity control area concerned a person to whom subsection (3) of this section applies who has been directed by the inspector to go directly there; but--
  - (i) Has failed or refused to do so within a reasonable time of being so directed; or
  - (ii) Has attempted to go instead to some other place; or
- (b) Detain in the biosecurity control area concerned a person to whom subsection (3) of this section applies who--
  - (i) Has been required by the inspector to remain there for a reasonable time to ascertain the presence of any risk goods; but
  - (ii) Has attempted to leave the biosecurity control area in contravention of the requirement; or
- (c) Stop, return to, and detain in the biosecurity control area concerned a person to whom subsection (3) of this section applies who has gone to the biosecurity control area, and--
  - (i) Has been required by the inspector to remain there for a reasonable time to ascertain the presence of any risk goods; but
  - (ii) Has left the biosecurity control area in contravention of the requirement;

or

(d) Stop, return to, and detain in the biosecurity control area concerned a person to whom subsection (3) of this section applies who has gone to the biosecurity control area, but left before the inspector has--

- (i) Required the person to remain there; or
- (ii) Had a reasonable time to ascertain the presence of any risk goods.

(5) Every person who has disembarked from a craft that has arrived in New Zealand, whether or not the person boarded the craft in New Zealand, shall make his or her accompanying baggage available for inspection by an inspector.

Cf. 1967, No. 50, s.22

Status Compendium

#### **SECT. 35. DUTIES OF PEOPLE IN BIOSECURITY CONTROL AREAS--**

Every person who is at any time in a biosecurity control area shall, for the purposes of this Part of this Act,--

- (a) Obey any reasonable direction of an inspector in relation to risk goods; and
- (b) Answer all questions asked by an inspector that are necessary for the inspector to ascertain the presence, nature, origin, or itinerary of any risk goods; and
- (c) Make available for examination by an inspector any goods in his or her possession or under his or her immediate control so that the inspector may ascertain the presence of risk goods.

Cf. 1967, No. 50, s.22

Status Compendium

#### **SECT. 36. MOVEMENT OF RISK GOODS--**

Any person who moves or wants to move risk goods within a controlled area shall comply with all reasonable directions given to that person by an inspector concerning the movement of those goods.

{ Editorial Note: s.36 omitted words "controlled area" and substituted words "biosecurity control area", to come into force by Order in Council under 1996, No. 30, s.149. }

Status Compendium

#### **SECT. 37. DESIGNATION OF PORTS--**

(1) Subject to subsection (7) of this section, if satisfied that--

- (a) There are available, and capable of operating to approved standards at no expense to the Crown, all arrangements, facilities (other than office and parking facilities), and systems that the Director-General for the time being reasonably requires, in relation to that port, for the purposes of this Part of this Act; and
- (b) Approved means of holding, destroying, and otherwise treating, risk goods arriving at the port are--
  - (i) Available to users of the port; and
  - (ii) Capable of being operated to approved standards at no expense to the Crown,--

the Director-General may by written notice designate the port an approved place of first arrival for craft arriving in New Zealand.

(2) The Director-General shall--

- (a) Within 28 days of designating a port an approved place of first arrival for craft arriving in New Zealand, publish in the Gazette a notice specifying the name of the port, the day on which it was so designated, and a place where the notice so designating it may be inspected; and
- (b) At all reasonable times make the written notice available for inspection at the place specified.

(3) The Director-General may be satisfied of the matters referred to in subsection (1) (b) of this section--

- (a) Whether or not all or any of the means concerned are under the control of the operator of the port concerned; and
  - (b) Whether--
    - (i) Means for holding risk goods; and
    - (ii) Means for destroying risk goods; and
    - (iii) Means for otherwise treating risk goods,--
 are contained in a single facility or 2 or more separate facilities; and
  - (c) In relation, in each case, to a single facility, or 2 or more competing facilities.
- (4) Nothing in this section authorises the operator of a port to require any user of a port--
- (a) To use or patronise facilities under the operator's control; or
  - (b) To contribute, directly or indirectly, towards the expense of operating facilities under the operator's control that the user has not used or patronised.
- (5) Subject to subsection (7) of this section, if no longer satisfied, in relation to a designated port of entry, of the matters specified in paragraphs (a) and (b) of subsection (1) of this section, the Director-General--
- (a) May, by written notice to its operator, suspend the port's designation under that subsection; or
  - (b) May, by written notice in the Gazette, revoke the port's designation under that subsection.
- (6) No operator of a port--
- (a) That is not a designated port of entry; or
  - (b) Whose designation under subsection (1) of this section is for the time being suspended,--
- shall wilfully or recklessly represent that the port is a designated port of entry.
- (7) The Director-General shall not take any action under subsection (1) or subsection (5) of this section without consulting the chief executives of--
- (a) The [New Zealand Customs Service]; and
  - (b) The Ministry of Forestry; and
  - (c) The Ministry of Health; and
  - (d) The New Zealand Police; and
  - (e) The Ministry of Transport; and
  - (f) Every other department of State whose operations may, in the Director-General's opinion, be affected by the action.

#### Status Compendium

### SECT. 38. IMPORTERS' RECORDS--

Every person who by way of commerce imports or causes to be imported any risk goods shall keep at that person's place of business, or at some other approved place in New Zealand, such records in respect of those goods, in such manner, and for such period of time, as may be prescribed.

#### Status Compendium

### SECT. 39. REGISTRATION OF QUARANTINE FACILITIES AND CONTAINMENT FACILITIES--

(1) An application for registration of any place as a quarantine facility (that is to say a facility for organisms or organic material that may be harbouring pests or unwanted organisms), a containment facility (that is to say a facility for organisms that should not, whether for the time being or ever, become established in New Zealand), or both, shall be made to the Director-General in an approved form, and shall be accompanied by an adequate plan and description of the place.

(2) The Director-General shall give notice of every application to such persons as the Director-General considers may have an interest in the application and shall give such persons a reasonable opportunity to make representations concerning the application; but notice under this subsection need not be given if the Director-General is of the opinion that immediate registration of a particular quarantine facility or containment facility is necessary to meet an unexpected exigency.

(3) The Director-General shall consider every application for registration and any

representations received concerning it and, if satisfied that it complies with the requirements of this Act, and that the premises are adequate and suitable for the proposed purpose and meet the standards approved for the proposed use of the facility, the Director-General may register the facility.

{ Editorial Note: s.39 (3) inserted words "of a quarantine facility" after word "registration", to come into force by Order in Council under 1996, No. 30, s.149. }

[(3A)]

{ Editorial Note: s.39 (3A) inserted, to come into force by Order in Council under 1996, No. 30, s.149. The inserted s.39 (3A) is listed below for reference.

"(3A) The Director-General shall consider every application for registration of a containment facility and any representations received concerning it and, if satisfied that it complies with the requirements of this Act and meets the standards and conditions set by the Authority, in accordance with the Hazardous Substances and New Organisms Act 1996, for containment of any organism specified in accordance with subsection (4) of this section as being able to be confined in that facility, the Director-General may register the facility. }

(4) A registration shall specify the species and categories of organisms which may be confined in the facility.

(5) If satisfied that its facilities are adequate and suitable for the proposed purpose and meet the standards approved for their proposed use, the Director-General may, by notice to the operator of a registered quarantine facility or registered containment facility, extend the registration of the facility to any further species or category of organism that may be confined there.

(6) The Director-General may by notice to the operator of the facility cancel the registration of a quarantine facility or containment facility, if the Director-General ceases to be satisfied that the facilities provided are suitable for the purpose or are being maintained to an approved standard.

Cf. 1967, No. 50, s.11A; 1967, No. 53, s.24

Status Compendium

#### **SECT. 40. REGISTRATION OF QUARANTINE OPERATORS AND CONTAINMENT OPERATORS--**

(1) The Director-General may register as a quarantine operator, a containment operator, or both, any person who satisfies the Director-General that the person is able to comply with the standards approved (as the case requires) for the operation of a quarantine facility, a containment facility, or both.

(2) An application for registration under this section shall be in an approved form and shall be accompanied by such further information as the Director-General may require.

(3) The Director-General shall consider every application for registration under this section and, if satisfied as required by subsection (1) of this section, the Director-General may register the applicant.

(4) If no longer satisfied that the registered operator of a registered quarantine facility or registered containment facility is maintaining approved standards, the Director-General may, by written notice to the operator, cancel the operator's registration.

(5) No person shall operate or purport to operate a quarantine facility or containment facility unless that person is registered as a quarantine operator or, as the case requires, a containment operator under this section.

Status Compendium

#### **SECT. 41. DESIGNATION OF QUARANTINE AREA--**

(1) The Director-General may by notice in the Gazette designate any place to be a quarantine area, and may at any time revoke or vary such a designation.

(2) An inspector may, by the display of a clearly visible notice within a biosecurity control

area, designate any place within that biosecurity control area to be a quarantine area.

**(3) A designation under subsection (2) of this section shall ordinarily expire after 48 hours, or when sooner revoked; but it may be extended once by an inspector for a further period of not more than 48 hours.**

**(4) Every quarantine area shall be under the direct control of an inspector.**

**(5) No person shall, knowing that an area is a quarantine area, enter, leave, or use the area for any purpose, without the permission of the inspector who has control of the area.**