

Biosecurity - Accreditation of Biosecurity Certifiers

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Management of the biosecurity risk

The purpose of this procedure is to set out how the NSW Department of Primary Industries (DPI), an office within the NSW Department of Industry, as an accreditation authority, will manage the accreditation of biosecurity certifiers under the *Biosecurity Act 2015* (the Act).

Scope

This procedure applies to NSW DPI, as an accreditation authority, for the accreditation of biosecurity certifiers.

Part 14 of the Act provides for the Secretary (as an accreditation authority) by instrument in writing, to grant accreditation as a biosecurity certifier to any person, subject to the Act..

Note: The approval of authorised officers under section 195 of the Act to exercise any specified function or functions of a biosecurity certifier, is not included in the scope of this procedure.

Biosecurity legislation summary

Part 14 for the Act provides for accreditation of biosecurity certifiers. The accreditation of a biosecurity certifier is for a maximum period of five years. The conditions of accreditation are subject to section 202 of the Act and may include limitations to a specified class of biosecurity certificate, or the certification of specified matters. Further conditions of biosecurity certifier accreditation are prescribed in Part 8 of the Biosecurity Regulation 2017 (the Regulation).

A biosecurity certifier or former biosecurity certifier who contravenes a condition of accreditation imposed under Part 14 of the Act is guilty of a category 2 offence.

The collection, use and disclosure of information in accordance with this procedure, including any internal or external discussion or distribution of information, must be in compliance with the *Privacy and Personal Information Protection Act 1998* or be exempted by the operation of section 387 of the Act.

Section 387 (2) of the Act provides authority for the disclosure of information about a person, without the consent of the person: to a public sector agency, or to any other person, but only if the disclosure is reasonably necessary for the purpose of exercising a biosecurity risk function.

Work health and safety

The *Work Health and Safety Act 2011* places an obligation on the agency as a person conducting a business or undertaking and workers, to provide a safe and healthy workplace. Safe Work Method Statements that support activities included in the procedure must be used in identifying, assessing and controlling risks.

The agency will work together to create a safe and supportive work environment when undertaking any activities for this procedure.

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Accreditation of biosecurity certifiers

1. Roles and responsibilities

1.1 Secretary (or delegate) (Accreditation authority):

- specify the minimum qualifications, skills and knowledge requirements for accreditation as a biosecurity certifier
- provide or identify the training requirements for biosecurity certifiers
- implement an internal audit system to ensure biosecurity certifiers comply with conditions of accreditation
- administer the accreditation of biosecurity certifiers
- maintain a database of all accredited biosecurity certifiers
- provide reports to national and interstate authorities as required

1.2 Accredited biosecurity certifier:

- must comply with the conditions of their accreditation
- issue biosecurity certificates consistent with their accreditation
- maintain records of all biosecurity certificates issued
- be responsive to the conduct of accreditation and compliance audits
- provide reports to NSW DPI as required.

2. Accreditation policy

Staff of the accreditation authority must ensure that all biosecurity certifier accreditations are consistent with the Biosecurity Accreditation Certifier policy.

3. Application for accreditation

Section 191(1) of the Act provides for an accreditation authority to grant accreditation as a biosecurity certifier to any person. Accreditation is granted by instrument in writing.

Applications must be completed and submitted using an approved form to be considered for accreditation and include:

- any supporting information or evidence required either by the Regulation or the accreditation authority, and
- the application fee.

The application fee should accompany the application if the application is to be processed in a NSW DPI office or if the application is lodged electronically, the payment can be made on line.

Note: authorised officer may be appointed as biosecurity certifiers in accordance with s. 195 of the Act and are not subject to the application or accreditation process.

4. Audits

4.1 Accreditation desk audit

Upon receipt of an application for accreditation the application will be the subject of an accreditation desk audit. The purpose of the desk audit is to determine if:

- the application has been completed satisfactorily
- supporting information and requirements have been provided, and
- the applicant is a suitable person to be accredited as a biosecurity certifier.

If the desk audit of the application is satisfactory then the applicant may require an initial (on-site) accreditation audit.

4.2 Initial (on-site) accreditation audit

Following satisfactory completion of the desk audit the applicant will be the subject of an initial on-site accreditation audit within 60 days of the receipt of the application. The audit must be conducted by an approved biosecurity auditor. The purpose of the audit is to assess:

- the applicant's capacity to comply with the conditions of their accreditation, including any relevant operational procedures, and
- the system implemented by the applicant is effective for ensuring the biosecurity matter (the subject of biosecurity certification) will comply with the specified requirements.

The audit should be conducted consistent with the Biosecurity Audit Procedure. The identification of any non-compliance with the conditions of accreditation or the operational procedure will determine if accreditation is granted or refused.

If any critical non-compliance is identified the application will be refused. If minor or major non-compliance is identified, accreditation may be granted or delayed subject to confirmation that the non-compliance has been rectified.

The accreditation authority and biosecurity auditors should refer to the conditions of accreditation or the arrangement's operational procedure when determining the significance of non-compliance identified at audit. The Regulation (see clause 92), identifies examples of critical non-compliance which should result in the suspension (pending possible cancellation) of accreditation.

5. Grant or Refusal of Accreditation

Section 197(1) of the Act provides for the accreditation authority to grant or refuse accreditation as a biosecurity certifier.

On completion of a successful accreditation audit, accreditation as a biosecurity certifier should be granted. Accreditation is effective for administrative purposes from this date.

The accreditation authority may refuse to grant accreditation if:

- critical non-compliance is identified at the accreditation audit
- the applicant fails to pay the application fee or any fees charged for the conduct of audits
- the applicant does not comply with any requirement imposed by or under the Act and/or
- the accreditation authority is not satisfied that the applicant has the qualifications, skills, knowledge and experience required.

The Act requires the accreditation authority to give an applicant notice in writing of a decision to grant, refuse or renew accreditation within 60 days after the application was made. After 60 days, the application is taken to have been refused if no notice is given. Clause 95(2) of the Regulation provides more detail as to how the 60-day period should apply.

The Regulation at clauses 93 prescribes additional grounds for the refusal, suspension or cancellation of accreditation and clause 94 prescribes additional matters to which the accreditation authority may have regard. They include but are not limited to:

- the person has made a statement or furnished information that is false
- the person has previously been accredited and that accreditation was cancelled

- whether the person has the capacity to properly discharge the person's functions as a biosecurity certifier
- the person's history of compliance with the Act, the Regulation or any other Act or law.

6. Compliance audits

Compliance audits will be carried at a minimum annually, when the person applies for renewal of accreditation or at defined intervals depending on the Operational Procedure under which the business is accredited.

Compliance audits may also be conducted to investigate a report of non-compliance. An accredited biosecurity certifier may also be the subject of random audits.

All compliance audits of accredited biosecurity certifiers, except random audits, should be the subject of the compliance audit fee.

Refer to Biosecurity Audit Procedure for more information of compliance audits of biosecurity certifiers.

7. Duration of accreditation

Section 198(1) of the Act provides for the accreditation authority to specify the accreditation period. Duration of accreditation for a biosecurity certifier cannot exceed a period of five years.

To ensure compliance with the current national arrangements for the operation of the Interstate Certification Assurance Scheme, accreditation will be granted for a period of one year.

8. Variation of accreditation

Section 198(1) of the Act provides for accreditation to vary at any time by notice in writing, the accreditation of a person, including the conditions of accreditation. There is no fee for a variation of accreditation proposed at this time. The Regulation does provide scope to have a fee for variation of accreditation.

9. Renewal of accreditation

Section 200 of the Act provides for the renewal of accreditation. This will be required annually or at an interval specified in the conditions of the variation. The duration of accreditation can extend to 5 years.

Accredited certifiers will be sent an application for renewal of their accreditation several weeks before their accreditation is due to expire.

The payment of a fee is required for the renewal of accreditation.

Applications for the renewal of accreditation should be the subject of a compliance audit. The purpose of the compliance audit is to determine the accredited person's compliance with their conditions of accreditation as well as the operational procedure required for accreditation. If the compliance audit identifies a satisfactory level of compliance, accreditation is renewed.

10. Conditions of accreditation

Accreditation as a biosecurity certifier is the subject of conditions. Those conditions will be specified in the application for accreditation. Other conditions have been prescribed in the Regulation at clause 97 and states:

It is a condition of a person's accreditation that the person must notify the Secretary of a change to any of the following within 7 days after the change occurs:

(a) the contact details of the person,

(b) the location of the land and buildings in which the person principally carries on business as a biosecurity certifier.

11. Suspension or cancellation of accreditation

Section 205 of the Act provides for the accreditation authority to suspend or cancel accreditation. Grounds for suspension or cancellation are if the accreditation authority:

- is of the opinion that the biosecurity certifier has contravened a requirement imposed by or under the Act
- is not satisfied that the biosecurity certifier has the qualifications, skills, knowledge or experience required
- is of the opinion the biosecurity certifier is not a suitable person
- receives information about the biosecurity certifier that would have been grounds for refusing an application for accreditation if it were known at the time of application, and
- clauses 89 and 90 of the Regulation have not been met.

Cancellation or suspension of accreditation must be by notice in writing to the biosecurity certifier. The notice of suspension must specify:

- the date the suspension takes effect
- the period of suspension, and
- the grounds for suspension.

11.1 Biosecurity certifier to be given opportunity to make submission about suspension

Section 207 of the Act requires before suspending a biosecurity certifier's accreditation the accreditation authority must give notice in writing of the accreditation authorities intention to suspend accreditation and invite the biosecurity certifier to make a submission within at least 30 days of the notice being given.

The accreditation authority is not required to give notice of the intention to suspend if:

- the suspension relates to a matter of critical non-conformance, or
- the biosecurity certifier has issued a certificate that is false or misleading or has engaged in fraudulent behaviour.

If the accreditation authority does suspend accreditation without giving prior notice, the accreditation authority must:

- give the biosecurity certifier notice in writing of the grounds for suspension, and
- invite the biosecurity certifier to make a submission with 30 days of receipt of the notice.

If the biosecurity certifier does make a submission then the accreditation authority must give notice in writing of the decision to the biosecurity certifier.

11.2 Biosecurity certifier to be given opportunity to make submission about cancellation

Section 209 of the Act requires that before cancelling accreditation the accreditation authority must:

- give notice in writing to the biosecurity certifier of the intention to cancel accreditation, and
- invite the biosecurity certifier to make a submission with 30 days of receipt of the notice.

The accreditation authority is not required to give notice of the intention to cancel accreditation if the accredited certifier's accreditation is suspended and:

- the accredited certifier has not made a submission about the suspension before and after it took effect, or
- the biosecurity certifier has requested cancellation.

11.3 Suspension or cancellation of Accreditation

If the applicant has had an accreditation cancelled within the previous two years and that cancellation has not been overturned on appeal.

12. Conditions of Accreditation

Accreditation will also be subject to conditions imposed by responsible accreditation authority. Biosecurity certifiers must;

- comply with any specified standards for the issue of biosecurity certificates
- not make a false or misleading statement in respect of a biosecurity certificate
- not issue a biosecurity certificate that contains false or misleading information
- not falsely represent that a biosecurity certificate has been issued
- keep records in relation to specified matters, and
- comply with any other condition considered appropriate.

Conditions of accreditation prescribed in the Regulation specify that a person must notify the Secretary of the following within seven days of the occurred change:

- contact details, and
- location of the land or building in which the person principally carries on business as a biosecurity certifier.

13. Compliance with standards

To become an accredited certifier, a person (or legal entity) must demonstrate they have effective in-house procedures that ensure any material consigned to intrastate or interstate markets meets the specified legal (quarantine) requirements.

14. Conditions for Insurance Cover

Accreditation conditions may require biosecurity certifiers to take out and maintain a policy of insurance that protects the biosecurity certifier from any liability that the biosecurity certifier may become subject to during the exercise of their functions as a biosecurity certifier.

15. Definitions and Acronyms

NSW DPI: NSW Department of Primary Industries

16. Documentation

Policy - Records Management (IND-I-177)
 Policy - Information Security (IND-I-197)
 Policy - Classified Information (IND-I-196)
 Policy - Government Information (Public Access) (IND-I-178)
 Policy - Biosecurity collection, use and disclosure of information
 Policy – Biosecurity - accreditation of biosecurity certifiers
 Procedure - Biosecurity collection, use and disclosure of information
 Procedure – Biosecurity certificates

17. Revision History

Version	Date issued	Notes	By
1.0	01/07/2017	New procedure developed in response to the <i>Biosecurity Act 2015</i> .	Compliance Systems Coordinator

18. Contact

Compliance Systems Coordinator
02 6391 3698