

## Biosecurity – Authorised analyst

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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 (NSW DPI) within the Regional NSW (the Department) will appoint a person as an authorised analyst for the purposes of the *Biosecurity Act 2015* (the Act).

This procedure also sets out circumstances when and how the Department may engage with an authorised analyst for the purpose of obtaining analysis as a supporting evidence.

### Scope

This procedure applies to the staff of NSW DPI who would be responsible for the appointment of an authorised analyst.

### Biosecurity legislation summary

Section 378 of the Act provides for the Secretary (or [delegate](#)) to appoint by instrument in writing, a person as an authorised analyst. The appointment may be unconditional, or subject to conditions or limitations.

The authorised analyst may exercise the functions of an authorised analyst under the Act or the *Stock Medicines Act 1989*.

If an appointment is made by reference to a particular office, the person ceases to be an appointed analyst if they cease to hold that position.

Section 393 (1) provides that a certificate issued by the Secretary as evidence that a person was an authorised analyst, is admissible in any legal proceedings (section 393(1)(i)(iv)).

Section 394 provides that a certificate of an authorised analyst stating the results of an analysis or examination is admissible in evidence in any legal proceedings as evidence of the facts stated in the certificate.

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

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## **Biosecurity Authorised Analyst Procedure**

### **1. Roles and responsibilities**

#### **1.1 Secretary (or delegate):**

- specify the minimum qualifications, skills and knowledge requirements for appointment as an authorised analyst
- appoint an authorised analyst and specify conditions of appointment
- revoke or amend the appointment of an authorised analyst

#### **1.2 Authorised analyst:**

- must comply with the conditions of their appointment
- issue certificates consistent with their appointment
- maintain records of all certificates issued

#### **1.3 Biosecurity and Food Safety:**

- administer the appointment of authorised analysts
- maintain a database of all authorised analysts
- undertake compliance and auditing activities as required.

### **2. Appointment policy**

Staff must ensure that all authorised analyst appointments are consistent with the Appointment of an Authorised Analyst Policy.

### **3. Application for appointment**

Section 378 of the Act provides for the Secretary to appoint a person as an authorised analyst for the purposes of the Act. Appointment is made by instrument in writing.

Biosecurity and Food Safety are seeking authorised analysts who specialise in:

- animal and plant species identification
- animal and plant disease identification
- pest and weed identification
- environmental laboratory analysis of soil, water, and stock feed samples.

Applications can be from individuals or from organisations identifying individuals. Applicants are able to obtain an application form online on the NSW DPI website. The application must be completed and submitted using the approved application form and include any supporting information or evidence required by the Secretary (or delegate).

Applications can be submitted to:

- By mail: Biosecurity & Food Safety NSW  
NSW Department of Primary Industries  
PO Box 232  
TAREE NSW 2430
- Email to: [bfs.admin@dpi.nsw.gov.au](mailto:bfs.admin@dpi.nsw.gov.au)

### 3.1 Applications by Individuals

Any person can apply to become an authorised analyst if they meet the criteria prescribed in section 5 of this procedure. An application can be made by a person for approval as an authorised analyst. Applications must be completed and submitted using the approved application form and including any supporting information or evidence required by the Secretary (or delegate).

### 3.2. Applications to appoint authorised analysts under the Mutual Recognition Act 1992

An authorised analyst in another jurisdiction can apply to become an authorised analyst in NSW under the Act using the principles of the *Mutual Recognition Act 1992* (Mutual Recognition Act).

Applicants will still be required to complete an approved application form which is available on the NSW DPI website, noting that they are applying under the Mutual Recognition Act. Applicants will need to provide a copy of their current approval along with a statutory declaration certifying that the written notice (application form) and approval papers are authentic.

The Department will assess the application with the process outlined in the User Guide to the Mutual Recognition Act and the Trans-Tasman Recognition Arrangement published by the Commonwealth of Australia.

As part of the assessment, the Department will contact the relevant jurisdiction where approval is already held to confirm interstate approval status.

## 4. Fees for application

There is no fee for the application to become an authorised analyst.

## 5. Authorised Analyst criteria - supporting information and evidence

An applicant must provide evidence of each of the following:

- Completion of a relevant tertiary course for a degree or diploma from a university or an institute of advanced education or equivalent academic qualifications, and
- Minimum three years relevant work experience since completion of a tertiary course. Of the three years, the last two years of relevant experience must be in the category in which approval is being sort:
  - Laboratory practice, or
  - Species identification.
- If relevant to the application, employment at a laboratory accredited by the National Association of Testing Authorities (NATA) (or demonstrated equivalency) or a laboratory approved by the NSW DPI.
- Relevant professional experience, publications/posters and other activities which would further substantiate the applicant's scientific accomplishments. (Including evidence of knowledge of, and expertise, in the analyses for which analyst approval is sought).
- Written reports from two referees competent in the relevant fields of analyses, who know the applicant professionally, and can substantiate the applicant's scientific competence and character.
- The following criteria are optional but would assist in granting of approval:
  - NATA Accreditation - provide a copy of documentation from the NATA Australia (or demonstrated equivalency) notifying that the applicant has received signatory approval and identifying those tests for which signatory approval is given.
  - List of relevant professional memberships
- Disclose history of non - compliance with the Act, the regulation or any other Act or law.

## 6. Review of application

Upon receipt of an application for appointment the application will be assessed (via desktop) to determine if:

- the application has been completed satisfactorily
- the supporting information and requirements have been provided, and
- the applicant is a suitable person to be appointed as an authorised analyst.

The Department will review an application within 20 business days of receiving the application and notify the applicant if any further information is required.

Depending on the applicant and the information supplied, the applicant may also be subject to an interview or required to supply additional information to support their application.

Following review of the application, an internal recommendation will be made to the Secretary (or delegate) indicating whether or not the candidate should be appointed as an authorised analyst.

## 7. Grant or Refusal of Appointment

Section 378(1) of the Act provides for the Secretary (or delegate) to appoint a person as an authorised analyst.

The Secretary (or delegate) will review the application and internal recommendation and make a decision to approve or not approve the application.

The Secretary (or delegate) will give an applicant notice in writing of a decision to grant or refuse appointment as an authorised analyst within 60 days after the application was made. After 60 days, the application is taken to have been refused if no notice is given.

If approved, appointment as an authorised analyst should be granted. Appointment is effective for administrative purposes from this date, and a copy of an approval notice will be sent to the authorised analyst.

Upon appointment, the analyst's name and address details will be made public by being placed on the 'List of approved analysts' which is available on the NSW DPI website.

However, the Secretary (or delegate) may refuse to grant appointment if:

- the Secretary (or delegate) is not satisfied that the applicant has the qualifications, skills, knowledge and experience required.
- the Secretary (or delegate) is satisfied that the person has wilfully or negligently contravened any provision of the Act or the regulations, or any other Act or law
- the Secretary (or delegate) is satisfied that the person has a direct or indirect interest in any business that, in the opinion of the Secretary (or delegate), could affect the carrying out of the person's functions under the Act,
- for any other reason that the Secretary (or delegate) considers appropriate.

If the application is not approved, the Secretary (or delegate) will provide the applicant with written notice stating the reason(s) for the refusal.

## 8. Conditions of appointment

Section 378(2) of the Act provides for an appointment as unconditional or subject to conditions or limitations. An appointment is subject to the following conditions:

### a) Notification requirements:

- An authorised analyst must notify the Secretary (or delegate) of any direct or indirect interest that the person has in any business as soon as possible after becoming aware of that interest.

- Authorised analyst must report any circumstances where they have been found guilty of an offence under the Act, any supporting regulations, or an offence under any other Act or law.
  - An approved analyst must notify NSW DPI of any change of employment.
- b) An authorised analyst must not wilfully or negligently contravene any provision of the Act or the regulations.
  - c) A person is authorised as an analyst under this Act only in the category for which approval is given.
  - d) An authorised analyst must maintain records for seven years and provide to Biosecurity and Food Safety upon request.
  - e) An authorised analyst must issue certificates that comply with the requirements of section 394 of the Act.

Appointment may also be the subject of any of the following conditions or limitations:

- a) For laboratory analysis, all analyses must be carried out or supervised at a laboratory accredited by NATA (or equivalent) or a laboratory approved by NSW DPI.
- b) Provision of results from NATA audits or other relevant audits/testing as prescribed in the instrument of authorisation.
- c) For species identification analysis, all analysis must be carried out or supervised at a relevant facility.
- d) Any other condition prescribed by the Secretary (or delegate) in the instrument of appointment.

## **9. Requirement of certificate of analysis**

All certificates issued by the authorised analyst must be in accordance with Section 394 of the Act. A certificate of an authorised analyst is to state the result of the analysis or examination and must certify that:

- on receipt of a container containing a sample submitted to the analyst by an authorised officer or any other person, the container was sealed and the seal securing the container was unbroken;
- facts stated in the certificate and the correctness of the result of the analysis or examination;
- that the sample was the same sample as the one submitted by the authorised officer or other person;
- that the sample had not been tampered with after sealing; and
- this is admissible as evidence.

## **10. Duration of authorisation**

Authorised analysts are authorised until the appointment is revoked.

## **11. Amend authorisation**

### **11.1 Amendment by Secretary (or delegate)**

Section 378(4) of the Act provides that the Secretary may amend the authorisation of a person, at any time.

Prior to amending the conditions of appointment, the Secretary (or delegate) must contact the authorised analyst to notify them of the intention to amend the conditions of appointment.

The Secretary (or delegate) must provide the analyst by notice in writing, the amendment of the conditions of appointment as an authorised analyst. The notice in writing must include:

- The condition(s) that will be applied,
- The reason for applying the condition(s), and
- The date of commencement of the new condition(s).

### **11.2 Amendment by the authorised analyst (Voluntarily)**

A person may request variation at any time by notice in writing, their authorisation. This may include amendments to conditions, inclusion of identified persons or change of work place.

Note, an amendment request may be subject to a desk audit assessment. These will be assessed on a case-by-case basis and request may not always be approved.

Following notification and review (if relevant), the Secretary (or delegate) will issue by notice in writing to the authorised analyst, amended conditions of appointment as an authorised analyst. The notice in writing of intention will confirm:

- The condition(s) that will be applied,
- The reason for applying the condition(s), and
- The date of commencement of the new condition(s).

## **12. Revocation of authorisation**

Section 378(4) of the Act provides for the Secretary by instrument in writing, to revoke the authorisation of a person, at any time.

The notice of revocation must specify the date or time from which the revocation takes effect and the grounds for revocation.

The Secretary (or delegate) must provide the analyst with details as to why the authorisation was revoked. Some of these reasons may include:

- if the Secretary (or delegate) is satisfied that the authorised analyst has wilfully or negligently contravened the Act, any supporting regulations, or an offence under any other Act or law.
- if the Secretary (or delegate) is satisfied that the person has contravened a condition to which the appointment is subject,
- if the Secretary (or delegate) is satisfied that the authorised officer has a direct or indirect interest in any business that in the opinion of the Secretary (or delegate) could affect the carrying out of the person's functions under the Act,
- if the authorised analyst has failed to report any circumstances where they have been found guilty of an offence under the Act at the request of the person, or
- for any other reason that the Secretary (or delegate) considers appropriate.

## **13. Engagement with Authorised Analysts**

### **13.1 When to engage with an authorised analyst**

Biosecurity and Food Safety may engage an authorised analyst for the purpose of carrying out analyses and producing a certificate for use as admissible evidence in any legal proceedings.

Examples when an authorised analyst may be used include:

- animal and plant species identification

- animal and plant disease identification
- pest and weed identification
- environmental laboratory analysis of soil, water, and stock feed samples.

### **13.2 How to engage with an authorised analyst**

If determined an authorised analyst is required, Biosecurity and Food Safety will contact the authorised analyst via mail, email or phone to initially seek their services.

It is the responsibility of the Director of Compliance and Integrity Systems to officially engage with the authorised analyst. Upon contact with the authorised analyst for the purposes of an analysis, it is appropriate to clarify that the analyst is still authorised and is complying with their conditions of authorisation and that there is no conflict of interest with the court proceeding.

## **14. Record Keeping**

The authorised analyst is responsible for the maintenance of all records for seven years related any cases where analysis is required. Documentation must be made available to the Department upon request.

The Department is responsible for the maintenance of all records for seven years related to the appointment of authorised analysts. Records required are as follows:

- authorised officers and their training, roles and responsibilities
- biosecurity analyst applications, and
- appointments issued.

## **15. Definitions**

Biosecurity and Food Safety: That part of NSW DPI with responsibility for administration of the *Biosecurity Act 2015*

Director of Compliance and Integrity Systems: includes any person acting in that role and any person performing the functions of the Director of Compliance and Integrity Systems.

NATA: National Association of Testing Authorities

NSW DPI: NSW Department of Primary Industries

Department: Department of Regional NSW.

## **16. Legislation**

*Biosecurity Act 2015*

Biosecurity Regulation 2017

Biosecurity (National Livestock Identification System) Regulation 2017

*Mutual Recognition Act 1992 (Cwlth)*

## **17. Related documents**

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 – Appointment of an authorised analyst

Procedure - Biosecurity collection, use and disclosure of information



## 18. Revision History

Version	Date issued	Notes	By
1.0	April 2020	Original version	Manager Operational Policy and Legislation

## 19. Contact

Manager Operational Policy and Legislation  
02 6391 3745