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**INFORMATION SHEET 13 – Biosecurity Act 2019 Proceedings**

There are two types of proceedings under the *Biosecurity Act 2019*.

Appeals which are identified under [*PART 14 - Legal Proceedings*](PART%2014%20-%20Legal%20Proceedings) [*Division 5 - Appeals*](Division%205%20-%20Appeals) of the *Biosecurity Act 2019*

Applications pursuant to s207 of the *Biosecurity Act 2019.*

**FILING AN APPEAL UNDER PART 14 DIVISION 5**

The same requirements for any appeals apply to this Act. See Information Sheets etc

**TIMEFRAMES FOR FILING APPEALS AND SEEKING EXTENSIONS OF TIME.**

S256 of the *Biosecurity Act 2019* relevantly sets the timeframe within which an appeal must be filed which is **28 days** after the day on which written notice of the decision has been served on the person who wishes to appeal.

S256(1) provides that the Tribunal has the capacity to accept an appeal outside that timeframe.

If seeking an extension of time please have regard to Information Sheet 2 and Practice Direction 1.

**GROUNDS OF APPEAL**

Please refer to Information Sheet 2 for guidance in drafting grounds of appeal.

**APPLICATIONS UNDER S207**

***Use of Tribunal Form***

The Tribunal has produced a form for the filing of applications under s207 of the *Biosecurity Act 2019*. The form is located under the Forms tab on the RPS website. Please ensure that that form is completed with all requested details to assist the Tribunal in processing your application.

***Additional Information***

An application under s207 of the *Biosecurity Act 2019* relates to an alleged contravention of a Biosecurity undertaking. The Tribunal must receive sufficient *prima facie* evidence and information to demonstrate that the proceedings are appropriately brought.

The additional information that needs to be filed with the required form includes:

1. A copy of the undertaking which has been executed in accordance with s203 of the *Biosecurity Act 2019*;
2. Evidence of the alleged breach. There must be sufficient evidence filed to demonstrate to the Tribunal that there is a *prima facie* breach such that the Tribunal should proceed to hear and determine the application. It is preferable that the evidence be filed in affidavit or statutory declaration form. The information that should be provided should include the date of the alleged contravention of the undertaking, the nature of the contravention and evidence demonstrating the contravention in question.
3. It is important that the form which is completed in filing the application clearly identifies the orders that are being sought pursuant to s207(2).

**PROCESS AND HEARING OF PROCEEDINGS UNDER BIOSECURITY ACT 2019**

Any application or appeal will follow the same processes set out in the Information Sheets of the RPS.

The requirements for the filing of materials as contained in Practice Direction 4 will be generally applicable, however, those elements of the Practice Directions which relate to planning appeals will not be required. The requirements for statements of evidence under Practice Direction 4 at 4.0.1 -4.0.6 are applicable.

The Tribunal will exercise discretion as to whether or not statements of facts and contentions will be required in proceedings under the *Biosecurity Act 2019*. The requirement of Practice Direction 4 at 4.3 may need to be modified if that process is identified as appropriate and helpful for the purposes of resolving appeals under the Act.

***Hearing Process***

The hearing processes for an application under s207 will follow the process set out under Information Sheet 9 which describes proceedings under civil enforcement provisions of various pieces of legislation. This is because the applicant bears the onus of proof for the purposes of establishing a contravention and secondly to demonstrate, in the exercise of the Tribunals discretion, that orders should issue in the terms applied for.