EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Agriculture, Fisheries and Forestry

Quarantine Act 1908

Quarantine Amendment Proclamation 2007 (No. 3)

The Quarantine Proclamation 1998 ("the Principal Proclamation") provides the legislative basis for controlling the entry of animals, plants and other goods of quarantine concern into Australia, and for controlling the movement of animals, plants or other goods of quarantine interest between different parts of the Australian mainland.

Section 13 of the Quarantine Act 1908 ("the Act") provides that the Governor-General may, by proclamation, declare or prohibit a range of matters for the purposes of the Act. These matters include the appointing of places on land or sea to be quarantine stations for the performance of quarantine by vessels, persons, goods animals, or plants; prohibits the introduction or importation into Australia of any disease or pest or any substance, article or thing containing or likely to contain any disease or pest; the importation into Australia of any articles or things likely, in his or her opinion, to introduce, establish or spread any disease or pest; and the importation into Australia of any animals or plants or any parts of animals or plants.

The purpose of the Proclamation is to amend the Principal Proclamation to update the list of seeds that may be imported into Australia without a permit.

Subsection 13(2) of the Act provides that the power of prohibition under section 13 of the Act extends to authorise prohibition generally, or as otherwise provided by the instrument authorising the prohibition, including prohibition either absolutely or subject to specified conditions or restrictions. Subsection 13(2A) of the Act provides that a Proclamation made under subsection 13(1) of the Act may provide that the importation of a thing is prohibited unless a permit for its import is granted by a Director of Quarantine. In addition, subsection 13(2B) of the Act states that an import permit granted pursuant to a Proclamation made in accordance with subsection 13(2A) may be granted subject to compliance with any conditions or requirements set out in that permit.

Section 63 of the Principal Proclamation provides that the importation into Australia of a seed (other than a seed of a kind of plant mentioned in Schedule 5 to the Principal Proclamation) is prohibited unless a Director of Quarantine has granted a permit for its importation. Schedule 5 to the Principal Proclamation lists all seeds that have been assessed as permitted seeds.

The Proclamation amends Schedule 5 (Permitted seeds) to the Principal Proclamation by adding a further 651 seeds, correcting 12 instances of typographical errors, removes 26 entries that are now considered to be weeds and as such present a quarantine risk and removes five instances of duplicate entries. These amendments reflect ongoing assessments conducted by Biosecurity Australia (BA) as a result of requests from importers to have additional seeds added to the permitted seeds list. All seeds being added have undergone the required assessment by BA.
The Act specifies no conditions that need to be met before the power to make the Proclamation may be exercised.

The Proclamation would be a legislative instrument for the purposes of the Legislative Instruments Act 2003.

The Proclamation would commence on the day after it is registered on the Federal Register of Legislative Instruments.

Details of the Proclamation are set out below.

Section 1 provides that the name of the Proclamation is the Quarantine Amendment Proclamation 2007 (No. 3).

Section 2 provides that the Proclamation commences on the day after it is registered on the Federal Register of Legislative Instruments.

Section 3 provides that Schedule 1 amends the Quarantine Proclamation 1998.

Schedule 1 - Amendments

Item 1 omits 38 seeds from Schedule 5 to the Principal Proclamation. The removal of 26 of these seeds reflects the result of ongoing assessments by Biosecurity Australia (BA). These 26 seeds have been removed because they are now considered to be weeds. The effect of this is to prohibit the importation into Australia of these 26 seeds.

The remaining 12 seeds that have been removed contain typographical errors. These 12 seeds are reinserted in item 3 with the correct spellings.

Item 2 removes the first instance of duplicate entries of 5 seeds.

Item 3 inserts 663 seeds into Schedule 5 to the Principal Proclamation. The effect of this amendment is to allow the importation of the seeds into Australia without an import permit. The additional seeds which have been added to Schedule 5 reflect the results of ongoing assessments conducted by BA. The effect of this amendment is to allow the importation into Australia of the 663 seeds without a permit.