EXPLANATORY STATEMENT

Select Legislative Instrument 2009 No. 121

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

Quarantine Regulations 2000

Quarantine Amendment Regulations 2009 (No. 1)

Subsection 87(1) of the Quarantine Act 1908 (the Act) provides, in part, that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters which by the Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The Quarantine Regulations 2000 (the Principal Regulations) give legislative effect to the provisions of the Act, which has broad coverage over matters of quarantine concern in Australia.

The Act provides for certain decisions to take account of quarantine risks. Part 6A of the Principal Regulations deals with import risk analyses (IRAs), which are used for assessing new quarantine risks or where aspects of the risk may differ significantly from those previously assessed. Under Part 6A, Biosecurity Australia, along with the Chief Executive, exercises a number of statutory responsibilities in relation to the conduct of IRAs.

The Principal Regulations currently define Biosecurity Australia for the purposes of Part 6A only. The definition is linked to Biosecurity Australia’s prescription under the Financial Management and Accountability Regulations 1997 (FMA Regulations).

The FMA Regulations have been amended to remove Biosecurity Australia from the list of prescribed agencies from 1 July 2009. As Biosecurity Australia is no longer prescribed under the FMA Regulations, a consequential amendment is required to the Principal Regulations as the definition of Biosecurity Australia is no longer accurate.

The purpose of the Regulations is to remove the definition of Biosecurity Australia from Part 6A as it is no longer necessary to include a definition of Biosecurity Australia in the Principal Regulations.

The proposed change to the status of Biosecurity Australia under the FMA Regulations was made to give effect to a recommendation of the 2008 independent review of Australia’s quarantine and biosecurity arrangements (the Beale review). On 18 December 2008, the Australian Government released its preliminary response to the Beale review report and agreed in-principle to all recommendations. This included, on an interim basis, the consolidation of the Australian Quarantine and Inspection Service, Biosecurity Australia and elements of the Product Integrity, Animal and Plant Health Division within the Department of Agriculture, Fisheries and Forestry (the Department) from 1 July 2009. Consequently, a new Biosecurity Services Group will be established from 1 July 2009.
As part of the consolidation of biosecurity functions, the Australian Government has agreed that Biosecurity Australia should no longer be a prescribed agency under the FMA Regulations. As a result, responsibility for Biosecurity Australia’s financial administration will return to the Secretary of the Department and no longer be vested in the Chief Executive of Biosecurity Australia from 1 July 2009.

The primary role of Biosecurity Australia in undertaking IRAs will carry on unchanged. It will continue to exist as a separate administrative entity within the Biosecurity Services Group, with a Chief Executive responsible for the conduct of IRAs. IRAs will continue to be undertaken under the current regulated process and resourcing for IRAs will not change as a result of the new arrangements.

The department has contacted all state and territory counterparts and key industry stakeholders to discuss the Beale review outcomes and the implementation of the recommendations. The department has also been notifying stakeholders of the establishment of the Biosecurity Services Group from 1 July 2009, including Biosecurity Australia’s structure within that group and providing reassurance that the IRA process will continue unaffected. This includes via a Quarantine and Exports Advisory Council meeting on 1 May 2009; the Primary Industries Ministerial Council and Natural Resource Management Ministerial Council meetings in May 2009; Plant Health Australia and Animal Health Australia meetings on 27 and 28 May 2009 respectively; and an Industry Roundtable meeting with around 30 leaders of industry on 29 May 2009.

Biosecurity Australia’s registered stakeholders - people and organisations that have an interest in Biosecurity Australia’s work, including industry and state and territory governments - were advised of the removal of Biosecurity Australia from the list of prescribed agencies under the FMA Regulations and the consequential amendment to the Quarantine Regulations via a Biosecurity Australia Advisory sent to all registered stakeholders in late June 2009. In line with Australia’s obligations under the World Trade Organization’s (WTO) Agreement on the Application of Sanitary and Phytosanitary Measures (SPS), WTO members have been notified. A cable has also been sent to all Australian posts and a briefing for staff from Canberra-based embassies will be held in July 2009.

The amending Regulations are a legislative instrument for the purposes of the Legislative Instruments Act 2003.

The amending Regulations commences on 1 July 2009.

Details of the amending Regulations are set out below:

Regulation 1 provides that the name of the Regulations is the Quarantine Amendment Regulations 2009(No. 1).

Regulation 2 provides that the Regulations commence on 1 July 2009.

Regulation 69B is amended to omit the definition of ‘Biosecurity Australia’ contained in regulation 69B to align the Quarantine Regulations 2000 with the Financial Management and Accountability Regulations 1997. This amendment is required as
regulations have been made to remove Biosecurity Australia from the list of prescribed agencies under the Financial Management and Accountability Regulations 1997 from 1 July 2009. As a result, responsibility for Biosecurity Australia’s financial administration will return to the Secretary of the Department of Agriculture, Fisheries and Forestry from 1 July 2009 and will no longer be vested in the Chief Executive of Biosecurity Australia.