EXPLANATORY STATEMENT

Issued by the Authority of the Parliamentary Secretary for Agriculture, Fisheries and Forestry

Quarantine Act 1908

Quarantine Amendment Proclamation 2011 (No. 1)

Legislative Authority

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 prohibiting the introduction or importation into Australia of any disease or pest or any substance. Matters also include prohibiting the importation of any animals or plants, or parts of animals or plants; any articles or things containing or likely to contain any disease or pest; and any articles or things that are likely, in the Governor-General’s opinion, to introduce, establish or spread any disease or pest.

Subsection 13(2) of the Act provides that the power of prohibition 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.

Background

The Quarantine Proclamation 1998 (the Quarantine 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.

Subsection 63(1) of the Quarantine 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 Quarantine Proclamation) is prohibited unless a Director of Quarantine has granted a permit for its importation. Schedule 5 to the Quarantine Proclamation lists all seeds that have been assessed as “permitted seeds”. The effect of section 63 is to allow seed species listed in Schedule 5 to be imported into Australia without an import permit.

Purpose and Impact

The purpose of the Amendment Proclamation is to update the list of seeds in Schedule 5 to the Quarantine Proclamation that may be imported into Australia without a permit.

The Amendment Proclamation amends Schedule 5 to the Quarantine Proclamation by inserting 1924 seed species and removing 149 seed species. These amendments would
reflect recent species risk assessments conducted by the Biosecurity Services Group of the Department of Agriculture, Fisheries and Forestry.

The Amendment Proclamation also corrects minor errors in the current Schedules 5 to the Proclamation. These amendments remove five duplicate entries and correct the formatting of some currently listed species, to apply a consistent approach throughout the list.

Consultation

The completion of a “Best Practice Regulation, Self Assessment” determined that the Amendment Proclamation would have a low impact on business and would impose no or low compliance costs. Therefore, no consultation was required for the proposed changes.

Operation

Details of the Amendment Proclamation are set out below.

Section 1 provides that the name of the Amendment Proclamation is the Quarantine Amendment Proclamation 2011 (No. 1).

Section 2 provides that the Amendment 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] corrects the spelling of the quarantinable fungi listed in Schedule 4 to the Quarantine Proclamation as Ophlostomatales. This incorrectly spelt fungi is omitted and re-inserted as Ophiosomatales.

Item 1 corrects the ordering of two permitted seeds in Schedule 5 to the Quarantine Proclamation.

Item 2 removes five species from the ‘permitted seeds’ list in Schedule 5 to the Quarantine Proclamation to correct duplication of listed seeds.

Item 3 removes 149 species from the ‘permitted seeds’ list in Schedule 5 to the Quarantine Proclamation.

Significant disease risks have been identified and the listed species have therefore, been reassessed due to concerns that have been raised. The species have been identified as being a host for Guava/Eucalyptus rust complex.

The effect of the amendment is to prohibit the importation of the species without an import permit. Importers would be required to apply for an import permit and the
species subject to quarantine conditions determined by a Director of Quarantine to manage the risk associated with the import of these seeds.

Items 4 to 8 inserts seven new seed species into the ‘permitted seeds’ list in Schedule 5 to the Quarantine Proclamation. These species have been inserted individually to deal with the different treatment of species starting with ‘x’ and ‘X’ to maintain the appropriate alphabetical listing.

Item 9 inserts 1924 new seed species into the ‘permitted seeds’ list in Schedule 5 to the Quarantine Proclamation in the appropriate alphabetical position as per drafting standards, to ensure application of a consistent alphabetical format throughout the Schedule 5 list. The species for inclusion are added to the list as a result of assessments carried out in response to importer requests. All species for inclusion in this amendment have been assessed by the Biosecurity Services Group as presenting minimal risk of introducing pest or becoming a weed in Australia.

Where a species is present in Australia and is not listed as being a weed, or considered to present a risk of becoming a weed, by any of the state or territory governments, assessments have been undertaken by the Plant Quarantine Branch of the Biosecurity Services Group (Plant Quarantine). These species would be added to the list without a Weed Risk Assessment being undertaken (see below for an explanation of this process). In undertaking this assessment, Plant Quarantine utilises several sources including:

- online herbariums and industry publications to validate that the plant name is a valid and/or widely accepted one
- online herbariums, industry publications, nursery catalogues and commercial invoices as proof that the species is present in Australia or has previously been imported, and
- state and territory government weeds lists to check the control status of the species.

Where Plant Quarantine found no evidence that a species is present in Australia and/or identified as being a weed, or considered to present a risk of being a weed, by a state or territory government, species have been referred to the Plant Biosecurity Branch of the Biosecurity Services Group (Plant Biosecurity) for assessment. On referral Plant Biosecurity has undertaken a Weed Risk Assessment on these species. This involves a question based scoring method relating to the species’ climatic preferences, biological attributes and reproductive and dispersal method. The score generated determines an outcome of ‘accept’, ‘reject’ or ‘further evaluate’. The Weed Risk Assessment makes a prediction as to whether a species may be a weed to agriculture or the environment.

The effect of this item is that importers no longer require an import permit for these seed species. Removing the need to obtain an import permit enables import free of the administrative or cost burden that may be associated with obtaining such a permit.