

Quarantine Regulations 2000 2000 No. 129

EXPLANATORY STATEMENT

Statutory Rules 2000 No. 129

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

Quarantine Act 1908

Quarantine Regulations 2000

Subsection 87(1) of the *Quarantine Act 1908* (the Act) provides, inter alia, that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and without limiting the generality of the foregoing, may make regulations concerning certain matters.

The Quarantine Regulations are made in consequence of amendments to the *Quarantine Act 1908* (the Act) made by the *Quarantine Amendment Act 1999* (which received the Royal Assent on 23 December 1999).

The Quarantine Regulations are linked with and support amendments made to the Act and the *Quarantine Proclamation 1998*. They reflect the up-dated language and concepts of the Act, and are structured to reflect the structure of the Act.

The Quarantine Regulations repeal and replace the following regulations:

Quarantine (General) Regulations 1956

Quarantine (Plants) Regulations 1935

Quarantine (Animals) Regulations 1935

Certain provisions of these regulations were elevated into the Act, as they dealt with rights and obligations more appropriate to be expressed in primary legislation. Certain provisions, being outdated or superseded, have been deleted from the Regulations. Finally, other provisions have been combined and incorporated into the Regulations. These provisions have been expressed in a modern drafting style to reflect the changed language and style of the Act.

The Regulations contain a savings and transitional arrangements provision that preserve directions, permissions, and approvals issued under specified regulations of the *Quarantine (General) Regulations 1956*.

The Regulations commence on 23 June 2000.

Details of the Regulations are in the Attachment.

ATTACHMENT

Regulation 1 gives the name of the regulations as the *Quarantine Regulations 2000*.

Regulation 2 states that the Regulations will commence on 23 June 2000.

Regulation 3 states that unless the contrary intention appears the Regulations apply both in Australia and the Cocos Islands, and that references to Australia or the Commonwealth include the Cocos Islands.

Regulation 4 defines words and expressions used in the Regulations.

Regulation 5 states that a reference to a person who is or was on board a vessel or installation, or who travels on a vessel or installation, includes the master and crew of the vessel or installation.

Regulation 6 prescribes certain diseases for the purpose of section 22(2) of the Act.

Regulation 7 prescribes, for the purpose of section 23 of the Act, the quarantine signal and its appropriate use during daylight hours.

Regulation 8 prescribes, for the purpose of section 23 of the Act, the quarantine signal outside daylight hours.

Regulation 9 provides, for the purpose of section 27A(1)(d) of the Act, that a prescribed vessel is one that is intended to arrive in Australia from the Special Quarantine Zone or the Protected Zone, and having a maximum overall hull length of 7 metres or less.

Regulation 10 prescribes the pre-arrival information that must be provided by the master of a vessel or installation, pursuant to section 27A(2) of the Act. The Regulation adds the requirement of giving information relating to ballast water on board a vessel and about its treatment.

Regulation 11 prescribes when, how, and to whom the pre-arrival information prescribed in regulation 10 must be given.

Regulation 12 prescribes the pre-arrival information that must be provided by the commander of an aircraft, pursuant to section 27B(2) of the Act. -

Regulation 13 prescribes when, how, where, and to whom the pre-arrival information prescribed in regulation 12 must be given.

Regulation 14 provides that for the purposes of section 27A(4) of the Act the diseases mentioned in subregulation 6(1) are prescribed.

Regulation 15 provides that the master of a vessel must, as soon as practicable, give a quarantine officer the name date and cause of death of a person who dies between the ending of the time in which the Master is required to give information under subsections 27A(2) and 27B(2), and before the vessel or installation departs from Australia.

Regulation 16 provides that the operator of an overseas vessel or installation must give notice of an intention to import an animal at least 48 hours prior to the vessels estimated time of arrival at port. Sub-regulation 14(3) provides that the commander of an overseas aircraft must give the estimated times of departure and arrival at least 48 hours before the estimated time of departure from the place where the animal is consigned.

Penalty - 5 0 penalty units.

Regulation 17 sets out when the master of an overseas vessel or installation must report the death or escape of an animal.

Penalty - 5 0 penalty units.

Regulation 18 prescribes matters, pursuant to section 28(1) of the Act, about which a quarantine officer may require the master, commander, medical officer, or agent of an operator of certain vessels or overseas aircraft to answer questions asked by the officer that are relevant to the vessel, installation or aircraft.

Regulation 19 provides that the master of a vessel under 25 metres in hull length must report to a quarantine officer any proposed change of mooring while in port, and the estimated time of departure from the port, at least 48 hours before the proposed change of mooring or departure.

Regulation 20 provides that if a person required to give information under regulation 15, 16, 17 or 19 becomes aware that the information is incomplete or inaccurate, he or she must give the complete or correct information as soon as practicable.

Penalty - 5 0 penalty units.

Regulation 21 provides that a person must not give or cause information to be given under regulation 15, 16, 17, 19 or 20 that is false or misleading in a material detail.

Penalty - 5 0 penalty units

Subregulation 21(2) provides that a person must not give or cause information to be given under regulation 15, 16, 17, 19 or 20 that is false or misleading in a material detail, and the person is negligent as to whether the information is false or misleading in that detail.

Penalty - 40 penalty units.

Regulation 22 provides that the master of an overseas vessel or installation at a port or place in Australia must take reasonable steps to ensure the vessel is in a sanitary condition and is not carrying diseases or pests.

Penalty - 40 penalty units.

Regulation 23 provides that the commander or operator of an overseas aircraft must make arrangements for the disinsection [sic - disinfection?] of the aircraft in a manner approved by a Director of Quarantine.

Penalty - 50 penalty units.

Regulation 24 provides that a quarantine officer must issue a Deratting Certificate, or a Deratting Exemption Certificate, for a vessel if the master or owner of the vessel has applied for it, and either the deratting of the vessel has been completed, or in relation to the Deratting Exemption Certificate, the officer is satisfied that the vessel is free of rats.

Regulation 25 provides that a quarantine officer may give the operator, master or agent of a vessel or installation about to depart from a proclaimed place in Australia a certificate specifying measures taken by or under the supervision of the officer to prevent the vessel, or a person or goods on the vessel, from spreading or causing the spread of a quarantinable disease or pest.

Regulation 26 provides that the master of an overseas vessel or installation at an Australian port must take reasonable measures to prevent a person from discharging or removing stores or waste from the vessel without the master's permission.

Penalty- 40 penalty units.

Regulation 27 provides that a person must not discharge or remove waste or stores from an overseas vessel or installation unless the master of the vessel or installation has given the person permission to do so. This is an offence of strict liability within the meaning of the Criminal Code.

Penalty - 40 penalty units.

Regulation 28 provides that a quarantine officer may secure waste or stores on an overseas vessel or installation to ensure regulations 26 & 27 are complied with. A person must not interfere with the waste or stores or the means of its security without the master's permission.

Penalty - 50 penalty units.

Regulation 29 provides that a permission given by the master under regulation 26, 27, or 28 may be given orally or in writing, and must be expressed to apply for a particular period.

Regulation 30 prescribes, pursuant to section 68A(b)(ii) of the Act, that the master of a vessel or installation on which there are animals that are not intended to be imported, must keep the animal on board the vessel while the vessel is in Australia.

Penalty - 50 penalty units

Regulation 31 states that a quarantine officer may give a passenger arriving on an overseas vessel or installation a notice requesting the person to give their intended address on disembarkation, and subsequent addresses if different, during a period of 14 days after the arrival or, issue of the notice. Failure to comply with a request is an offence of strict liability within the meaning of the Criminal Code.

Penalty - 30 penalty units.

Regulation 32 defines a 'yellow fever proclaimed place'.

Regulation 33 provides that a person is taken to have travelled from a yellow fever proclaimed place if the person was at the place not more than 6 days before they arrived in Australia.

Regulation 34 requires a person arriving from a yellow fever proclaimed place to have an international certificate of vaccination against yellow fever; and to give a quarantine officer or customs officer the certificate at the first port of disembarkation. Failure to comply is an offence of strict liability within the meaning of the Criminal Code.

Penalty - 30 penalty units

Regulation 35 sets out the information that an international certificate of vaccination must contain.

Regulation 36 provides that an order into quarantine given to a person under the Act or Regulations must be in writing.

Regulation 37 sets out to whom an order into quarantine may be given under denominated sections of the Act.

Regulation 38 provides, for the purpose of section 35(1A) of the Act, that yellow fever is a prescribed disease, and the prescribed period (within which a person must be vaccinated) is 10 years before the day the person arrives in Australia to 10 days before that day.

Regulation 39 provides, for the purpose of sections 35(2) & 35(2A) of the Act, that a quarantine officer must not order a vessel or installation into quarantine if he or she inspects the vessel, makes enquiries considered necessary, and is satisfied that the vessel is not a danger to public health.

Regulation 40 provides, for the purpose of sections 46A(3)(a)(iii) and 46A(9)(f)(iii) of the Act, that the Acts mentioned in Schedule 1 of the Regulations are prescribed.

Regulation 41 states that a person ordered into quarantine under sections 35(1) or 35(1A) of the Act, must perform quarantine for the relevant periods mentioned in regulation 42. A person who is ordered into quarantine under section 35A(3) must perform quarantine until a medical practitioner certifies that the person is no longer capable of spreading the disease to other people.

Regulation 42 prescribes, for the purpose of section 34(3) of the Act, periods for which people are subject to quarantine after being exposed to infection from five listed diseases.

Regulation 43 provides that a quarantine officer may by notice require a person subject to quarantine to submit to a medical examination.

Regulation 44 provides that the Commonwealth is not liable for the costs incurred by a person in relation to regulation 43. If a person fails to pay the amount of the medical expenses the Minister may pay that amount, and may recover the amount in a court of competent jurisdiction.

Regulation 45 provides that a person under quarantine surveillance must not change their residence, or leave the State or Territory in which they are located, unless given permission to do so in writing by a quarantine officer.

Regulation 46 provides that a quarantine officer may by written notice given to a person released under quarantine surveillance impose conditions for the release. A person released under quarantine surveillance must comply with any condition imposed for the release by a quarantine officer.

Regulation 47 provides that a quarantine officer may order a person released under quarantine surveillance into quarantine if they fail to comply with the requirements of the Act or Regulations in relation to surveillance, and the officer is satisfied there is a danger to public health if they were not ordered into quarantine.

Regulation 48 defines for Part 5 of the Regulations that goods imported into Australia include goods imported from the Cocos Islands, whereas goods imported into the Cocos Islands do not include goods imported from Australia.

Regulation 49 provides, for the purpose of section 16AC(3) of the Act, that section 16AQ2) does not apply to goods imported as accompanied baggage, or in a consignment of mail, if the goods are not goods of a kind prescribed under paragraph 68(1)(e) of the Customs Act, and have a

value of less than \$1000 or another amount prescribed under subparagraph 68(1)(e)(ii) of the Customs Act.

Regulation 50 provides, for the purposes of section 16AQ4) of the Act, that notice under section 16AQ1) or (2) must be given to a quarantine officer or an officer of Customs. Sub-regulation 50(2) sets out in table form the information that must be given.

Regulation 51 applies to low value imported goods (goods that do not exceed the value of \$1,000) that are consigned other than by post by one person to another, and are transported to Australia in the same vessel. Sub-regulation (2) states, for the purpose of section 16AC of the Act, that notice may be given by giving a quarantine officer or an officer of Customs notice mentioned in regulation 50, or by notice giving information contained in a table in regulation 51 itself.

Regulation 52 refers to goods imported for the Olympics, and provides, for goods described in regulation 125A of the Customs *Regulations 1926*, that notice under sections 16AC(I) or (2) of the Act may be given by giving a quarantine officer or an officer of Customs a notice mentioned in regulation 50, or by giving a notice containing the information set out in the table in regulation 52 itself.

Regulation 53 provides, for the purpose of subsection 16AQ5) of the Act, that for goods imported into Australia, entering the goods for home consumption, warehousing or transshipment constitutes the giving of notice under 16AQ1) or (2) of the Act if the entry is made under section 7 1 A of the Customs *Act 1901*, and is communicated to Customs under that Act, and contains the information required under that Act.

Regulation 54 provides, for the purpose of subsection 16AQ5) of the Act, that giving a copy to a quarantine officer of the manifest of the vessel on which empty containers, and goods imported as the unaccompanied baggage of a person who travels to Australia, is taken to constitute the giving of notice under section 16AC(I) or (2) of the Act, if the manifest is complete and accurate in its information about the goods.

Regulation 55 provides, for the purpose of subsection 1.6AC(5) of the Act, that giving a copy to a quarantine officer in the Cocos Islands of the manifest of the vessel on which goods that are imported into the Cocos Islands from Australia, or being goods mentioned in paragraph 54(1)(a) or (b) or in regulations 51 or 52 imported into the Cocos Islands, is taken to constitute the giving of notice under section 16AC if the manifest is complete and accurate in its information about the goods.

Regulation 56 states that Division 3 of Part 5 of the Regulations does not apply to **goods mentioned in regulation 49**.

Regulation 57 provides that a notice that goods are released from quarantine, or released **under quarantine surveillance**, must be given in writing. A notice that further information or an examination of the goods is required before the goods are released from **quarantine or released under quarantine surveillance**, must also be given in writing.

Regulation 58 provides that a person must not give a false or misleading answer to a question about a quarantine matter on an incoming passenger card even if the answer is in relation to somebody else. The offence is characterised as one of strict liability within the meaning of the Criminal Code.

Penalty - 10 penalty units.

Regulation 59 provides definitions for Division 2 of Part 6 of the Regulations.

Regulation 60 provides that if there are reasonable grounds to believe that a person has committed an infringement notice offence, a quarantine officer may serve a quarantine infringement notice on the person. An infringement notice must not be served on a person for contravention of section 70A(3) or (4) after the person leaves the port.

Regulation 61 provides that if an infringement notice is served on a person, a quarantine officer may require the person to give their name and address and to show evidence of their identity.

Regulation 62 provides that a quarantine officer may withdraw by notice in writing an infringement notice served on a person before the person leaves the quarantine clearance area or at the end of a further period allowed under regulation 64(2).

Regulation 63 sets out the list of information that an infringement notice must contain.

Regulation 64 provides that a person served with an infringement notice must pay the penalty prescribed in the notice before leaving the quarantine clearance area. If a quarantine officer reasonably considers it proper to allow the person more time to pay, the officer may do so whether or not the person has left the quarantine clearance area or not. If the officer allows more time, the officer must tell the person in writing that the officer has done so, and when the time so allowed ends.

Regulation 65 provides that if a person served with an infringement notice pays the penalty before leaving the quarantine clearance area their liability in respect of the offence is discharged, no further proceedings may be taken against them for the offence, and he or she is not taken to have been convicted of the offence.

Regulation 66 provides that if an infringement notice is served on a person, and the penalty is paid in accordance with the notice, and the notice is later withdrawn, a quarantine officer must arrange a refund to the person.

Regulation 67 states that Part 6 of the Regulations do not prevent more than one infringement notice being served on a person for the same infringement notice offence, but that regulation 65 applies to the person if they pay the penalty in accordance with one of the notices.

Regulation 68 provides that if payment is made by cheque, payment is not taken to have been received unless the cheque is honoured upon presentation.

Regulation 69 describes the effect of Part 6 of the Regulations on the institution and prosecution of proceedings relating to infringement notice offences.

Regulation 70 provides that an application for a permit under the Quarantine Proclamation 1998 must be in writing in a form approved by a Director of Quarantine. An application must be made to a Director of Quarantine.

Regulation 71 provides that if a permit is granted under the Quarantine Proclamation 1998, a Director of Quarantine must attach an identifying number to the permit and give the permit to the applicant, or allocate an identifying number to the permit and give the number to the applicant.

Regulation 72 provides, for the purpose of section 66B(2) of the Act, that a compliance agreement must mention certain matters relating to the creation and maintenance of records,

the examinations or services to be conducted by the Commonwealth under the agreement for which the Commonwealth will charge a fee, and that the non-Commonwealth party to the agreement will keep records at the premises or will provide the records to a quarantine officer on request within such time as provided for in the agreement.

Regulation 73 provides that a compliance agreement may be signed by the director, manager or senior executive of a corporation who has responsibility for the business operation of the corporation, and is authorised to enter into contracts for the corporation.

Regulation 74 provides that the provisions of a compliance agreement mentioned in Division 2 of Part 7 are in addition to any other term of the agreement.

Regulation 75 provides, for the purpose of section 68(9) of the Act, that notice must be given within 60 days after a Director of Quarantine first became aware that section 68 of the Act applies to goods.

Regulation 76 states that an officer or police officer who seizes an animal, plants or goods under section 69 of the Act must as soon as practicable give a notice to the importer, owner or person in control of the animal, plants or goods. Sub-regulation 76(2) provides that the notice must state that the animal, plants or goods have been seized, and identify the place where they have been or will be taken.

Regulation 77 states that unless the contrary intention applies a notice given to a person under these regulations must be in writing.

Regulation 78 sets out the circumstances in which information in writing that under the Act or Regulations is required or permitted to be given to a Director of Quarantine, an officer, or a quarantine officer, is taken to have been so given.

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Regulation 79 sets out the circumstances in which information that is required or permitted to be given to the master of a vessel or installation is taken to have been so given to the master.

Regulation 80 sets out the transitional arrangements consequent on the commencement of the Regulations.

Regulation 81 repeals the *Quarantine (General) Regulations*.

Regulation 82 repeals the *Quarantine (Animals) Regulations*.

Regulation 83 repeals the *Quarantine (Plants) Regulations*.

Schedule 1 prescribes Commonwealth, State and Territory Acts for the purposes of section 46A(3)(a)(iii) and 46A(9)(f)(iii) and regulation 40.