

# **Quarantine Amendment Regulations 2003 (No. 1) 2003 No. 36**

## **EXPLANATORY STATEMENT**

### **STATUTORY RULES 2003 No. 36**

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

*Quarantine Act 1908*

Quarantine Amendment Regulations 2003 (No. 1)

Section 87 of the *Quarantine Act 1908* (the Act) provides 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. Paragraph 87(1)(sa) of the Act provides that the Governor-General may make regulations enabling a person who is alleged to have contravened a provision of the Act or the Regulations to pay to the Commonwealth, as an alternative to prosecution, a penalty of not more than 10 penalty units.

Part 6 of the Quarantine Regulations 2000 establishes infringement notice offences and infringement notices as an alternative to prosecution. Regulation 59 defines an infringement notice offence as (a) a contravention of subsections 70A(3) or (4) of the Quarantine Act by a person who travelled to Australia or the Cocos Islands on an overseas vessel, or (b) a contravention of subregulation 58(1). Subregulation 58(1) provides that a person must not give a false or misleading answer to a question about a quarantine matter on an Incoming Passenger Card or a Master and Crew Declaration Card. This provision does not apply to persons leaving the vessel other than international passengers or crew who complete the cards.

Subsections 70A(3) and (4) of the Quarantine Act provide that a person is guilty of an offence if, in relation to a question from a quarantine officer about goods that they are carrying or otherwise associated with on an overseas vessel, they fail to answer the question or provide a false or misleading statement. Section 70A applies to all persons disembarking from overseas vessels including, but not limited to, international passengers, crew, visitors to the vessel, service people, and domestic passengers travelling the domestic leg of an international journey.

However, paragraph (a) of regulation 59 restricts the definition of infringement notice offences to a contravention of section 70A(3) or (4) by "a person who travelled to Australia or the Cocos Islands on an overseas vessel". While this may include a majority of people disembarking from an overseas vessel, it does not include visitors to the vessel, service people, and domestic passengers travelling the domestic leg of an international journey. In each case, there is a significant risk that these persons may attempt to import items of quarantine concern from either the vessel or other passengers.

The purpose of the proposed Regulations is to increase the range of persons to whom a quarantine infringement notice may be served under regulation 60 by amending the definition of "quarantine infringement offence" under paragraph (a) of regulation 59. The proposed Regulations would also clarify in regulation 4 that the reference to "first port of entry" in paragraph (a) of regulation 59 includes first ports of entry in the Cocos Islands.

The amendment to regulation 59 would remove the requirement in paragraph (a) that a person in contravention of section 70A(3) or (4) needs to have travelled to Australia or the Cocos Islands on an overseas vessel.

The effect of this amendment would allow quarantine officers to serve quarantine infringement notices on *any* person who, in the act of leaving an overseas vessel, fails to answer questions about their luggage or makes a false or misleading statement. This would significantly enhance the effectiveness of quarantine intervention at seaports and airports, and increase quarantine awareness amongst all persons who interact with overseas vessels.

Details of the amendments are set out below:

Regulation 1 provides that the Regulations are named the *Quarantine Amendment Regulations 2003 (No. 1)*.

Regulation 2 provides that the Regulations commence on gazettal.

Regulation 3 provides that Schedule 1 of the Regulations amends the *Quarantine Regulations 2000*.

#### Schedule 1

Item 1 inserts a definition of first ***port of entry*** to include a "first Cocos Islands port of entry".

Item 2 inserts "First Cocos Islands port of entry" after the word "exposed" in the *Note* immediately preceding regulation 5. The *Note* lists expressions used in the Regulations, which are defined in the Act.

Item 3 substitutes a new definition for ***infringement notice offence***. The effect of this amendment is to increase the range of persons to whom quarantine infringement notices may apply. Essentially, the amendment extends infringement notice offences to any person who contravenes subsections 70A(3) or (4) of the Act, whether or not they have travelled to Australia or the Cocos Islands on an overseas vessel.