

# **Administrative Decisions (Judicial Review) Amendment Regulations 2003 (No. 1) 2003 No. 115**

## **EXPLANATORY STATEMENT**

### **Statutory Rules 2003 No. 115**

Subject: *Administrative Decisions (Judicial Review) Act 1977*

Administrative Decisions (Judicial Review) Amendment Regulations 2003 (No. 1)

Section 20 of the *Administrative Decisions (Judicial Review) Act 1977* (the Act) provides that the Governor-General may make regulations for the purposes of the Act.

Subsection 19(1) of the Act provides that regulations may be made declaring a class or classes of decisions to be decisions that are not subject to judicial review by the Federal Court or the Federal Magistrates Court under the Act.

The *Administrative Decisions (Judicial Review) Amendment Regulations 2003 (No. 1)* (the proposed regulations) exempt decisions made under the *Quarantine Act 1908* to contain or prevent an outbreak of a major emergency animal disease from the operation of the Act.

The purpose of the regulations is to prevent an action being taken under the Act that could delay the prompt implementation of measures essential to controlling and eradicating an outbreak of a major emergency animal disease where a person is exercising powers under the Quarantine Act. The proposed regulations also add a definition of "Court".

Delays in such circumstances may be highly detrimental to the control or eradication of an animal disease, such as Foot and Mouth Disease, that can spread rapidly and cause damage of national significance.

The exemption from the Act only applies where the Governor-General has made a proclamation under section 2B(1) of the Quarantine Act. This provision requires that before the Governor-General makes such a proclamation he must be satisfied that there was either an epidemic or a danger of an epidemic of a quarantinable disease in a part of the Commonwealth. While the proclamation is in force the Minister may make decisions necessary to control and eradicate the epidemic. Where the Governor-General is satisfied that the epidemic has the potential to affect an industry of national significance the proclamation can also enable the Minister to authorise the use of coordinated response powers by designated national response agencies in accordance with section 3 of the Quarantine Act. It is envisaged that coordination of the actions of all levels of government in Australia and agricultural industries would be required in a major animal disease outbreak, such as Foot and Mouth Disease.

The regulations do not limit the right to apply for a writ of mandamus, prohibition or an injunction under section 75(v) of the *Constitution*, or section 39B of the *Judiciary Act 1903*, against a decision made by a Commonwealth officer during the period of the Proclamation.

The necessary powers to respond immediately to a major emergency animal disease outbreak such as Foot and Mouth Disease are an integral part of a national whole-of-government coordination framework agreed by the Council of Australian Governments in April 2002.

The proposed regulations commence on the day they are gazetted.

Authority: Section 20 of the *Administrative Decisions (Judicial Review) Act 1977*

