

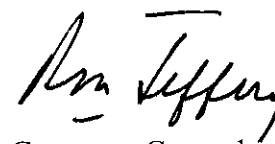


Quarantine Amendment Proclamation 2003 (No. 3)

Quarantine Act 1908

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make this Proclamation under section 13 of the *Quarantine Act 1908*.

Signed and sealed with the
Great Seal of Australia
on 18th Dec 2003


Governor-General

By His Excellency's Command


WARREN TRUSS

Minister for Agriculture, Fisheries and Forestry

1 Name of Proclamation

This Proclamation is the *Quarantine Amendment Proclamation 2003 (No. 3)*.

2 Commencement

This Proclamation commences on gazettal.

3 Amendment of *Quarantine Proclamation 1998*

Schedule 1 amends the *Quarantine Proclamation 1998*.

Schedule 1 Amendments

(section 3)

[1] Reader's guide, paragraph 3.1, quoted section 4 of *Quarantine Act*

substitute

4 Scope of quarantine

- (1) In this Act, **quarantine** includes, but is not limited to, measures:
 - (a) for, or in relation to:
 - (i) the examination, exclusion, detention, observation, segregation, isolation, protection, treatment and regulation of vessels, installations, human beings, animals, plants or other goods or things; or
 - (ii) the seizure and destruction of animals, plants, or other goods or things; or
 - (iii) the destruction of premises comprising buildings or other structures when treatment of these premises is not practicable; and
 - (b) having as their object the prevention or control of the introduction, establishment or spread of diseases or pests that will or could cause significant damage to human beings, animals, plants, other aspects of the environment or economic activities.
- (2) Without otherwise limiting the nature of any quarantine measure, or measure incidental to quarantine:
 - (a) by way of a direction that a person may be authorised to give; or
 - (b) by way of an action that a person may be authorised to take;
either as a result of a Ministerial authorisation under subsection 3(1) or as a result of an authorisation by the executive head of a national response agency under subsection 3(2), that direction or action must be no more than is reasonably appropriate and adapted:
 - (c) to the control and eradication of the epidemic; or

(d) to the removal of the danger of the epidemic;
in respect of which the authorisation was given.

[2] Reader's guide, paragraph 3.2

omit

Quarantine (Cocos Islands) Regulations.

insert

Quarantine (Cocos Islands) Regulations 1982.

[3] Reader's guide, paragraph 8.3

omit

Cairns Airport	Animals from NZ only (see table 4 in s 11)	Yes	Yes
Horn Island Airport			

insert

Cairns Airport	Animals from NZ only (see table 4 in s 11)	Yes	Yes
Coolangatta Airport			
Horn Island Airport			

[4] Reader's guide, paragraph 9.1, quoted section 67 of *Quarantine Act*

substitute

67 Penalties for certain acts done in contravention of Act

Basic illegal importation offence

- (1) A person is guilty of an offence against this subsection if:
- (a) the person imports, introduces, or brings into any port or other place in Australia or the Cocos Islands any thing; and
 - (b) the person knows that the thing is:
 - (i) a disease or pest; or
 - (ii) a substance or article containing a disease or pest; or
 - (iii) an animal, plant or other goods; and
 - (c) the importation, introduction or bringing in of the thing is in contravention of this Act.

Maximum penalty: Imprisonment for 10 years.

Strict liability applies to paragraph (1)(c)

- (2) For the purposes of an offence against subsection (1), strict liability applies to paragraph (1)(c).

Aggravated illegal importation offence

- (3) A person is guilty of aggravated illegal importation if:
- (a) the person imports, introduces, or brings into any port or other place in Australia or the Cocos Islands any thing; and
 - (b) the person knows that the thing is:
 - (i) a disease or pest; or
 - (ii) a substance or article containing a disease or pest; or
 - (iii) an animal, plant or other goods; and
 - (c) the importation, introduction or bringing in of the thing is in contravention of this Act; and
 - (d) the person obtains, or is likely to obtain, a commercial advantage over the person's competitors or potential competitors.

Maximum penalty:

- (a) if the offender is an individual—imprisonment for 10 years or a fine of 2,000 penalty units, or both; and
- (b) if the offender is a body corporate—a fine of 10,000 penalty units.

Examples of commercial advantage

- (4) The following are examples of a commercial advantage as referred to in subsection (3):
- (a) the avoidance of business costs associated with obtaining an import permit or meeting quarantine requirements; or
 - (b) the avoidance of delays necessarily involved in compliance with applicable quarantine measures.

Strict liability applies to paragraph (3)(c)

- (4A) For the purposes of an offence against subsection (3), strict liability applies to paragraph (3)(c).

Illegal removal offence

- (4B) A person is guilty of an offence against this subsection if:
- (a) the person removes any thing:
 - (i) from a part of Australia to another part of Australia; or
 - (ii) from a part of the Cocos Islands to another part of the Cocos Islands; or
 - (iii) from Australia to the Cocos Islands; or
 - (iv) from the Cocos Islands to Australia; and
 - (b) the person knows that the thing is an animal, plant or other goods; and

(c) the removal of the thing is in contravention of this Act.

Maximum penalty: Imprisonment for 10 years.

Strict liability applies to paragraph (4B)(c)

(4C) For the purposes of an offence against subsection (4B), strict liability applies to paragraph (4B)(c).

Non-compliance with condition of permit granted under Proclamation

- (5) A person is guilty of an offence if:
- (a) the person fails to comply with a condition or restriction set out in a permit granted under a Proclamation made in accordance with subsection 13(2A); and
 - (b) the person is reckless as to whether or not the condition or restriction is complied with.

Maximum penalty: Imprisonment for 10 years.

Hindering compliance with Act

- (6) A person is guilty of an offence if the person:
- (a) does any act that hinders or prevents another person from complying with this Act; and
 - (b) is reckless as to whether or not the doing of that act hinders or prevents the other person from complying with this Act.

Maximum penalty: Imprisonment for 10 years.

[5] Reader's guide, paragraph 9.1, quoted section 68 of *Quarantine Act*

omit

Person to whom notice may be given

- (4) A notice under subsection (2) or (3) may be given:
- (a) in respect of animals, plants or other goods imported as mentioned in paragraph (1)(a)—to the importer; or
 - (b) otherwise—to the owner, or the person in possession or control, of the animals, plants or goods.

insert

Person to whom notice may be given

- (4) A notice under subsection (2) or (3) may be given:
- (a) in respect of animals, plants or other goods imported or introduced into, or brought into any port or other place in, Australia or the Cocos Islands—to the importer or consignee of the goods; or

(b) otherwise—to the owner, or the person in possession or control, of the animals, plants or goods.

[6] Subsection 14 (1), note

omit

[7] Paragraph 15 (a)

omit

Rydalmere

insert

Eastern Creek

[8] Section 15, note

omit

[9] Section 20, note

omit

[10] Schedule 1, Part 2, clause 11

substitute

11 Eastern Creek (New South Wales)

The land in New South Wales in folio identifier 3/262259 at Wallgrove, City of Blacktown, Parish of Melville, County of Cumberland that is Lot 3 in deposited plan 262259

[11] Schedule 5

omit

Allium spp. (other than *A. vineale*)

insert

Allium spp. (other than *A. vineale*)

[12] Schedule 5

omit

Annona spp. (other than *A. senegalensis*)

insert

Annona spp. (other than *A. glabra* and *A. senegalensis*)

[13] Schedule 5*omit**Araujia hortorum***[14] Schedule 5***omit**Cleome* spp. (other than *C. burmanni*, *C. gynandra* and *C. rutidosperma*)*Cleome gynandra**insert**Cleome* spp. (other than *C. burmanni* and *C. rutidosperma*)**[15] Schedule 5***omit**Gnetokoktum africanum**insert**Gnetokokotum africanum***[16] Schedule 5***omit**Rodrigueziopsis* spp.*Roella ciliata**Roella ciliata**Roeperocharis* spp.*insert**Rodrigueziopsis* spp.*Roella ciliata**Roeperocharis* spp.**[17] Schedule 5***omit**Rubus* spp. (other than *R. affinis*, *R. apetalus*, *R. argutus*, *R. caesius*, *R. cuneifolius*, *R. longepedicella*, *R. niveus*, *R. pinnatus*, *R. rigidus* and *R. vitifolius*)*insert**Rubus* spp. (other than *R. affinis*, *R. apetalus*, *R. argutus*, *R. caesius*, *R. cuneifolius*, *R. fruticosus* L. agg., *R. longepedicella*, *R. niveus*, *R. pinnatus*, *R. rigidus* and *R. vitifolius*)

[18] Schedule 5*omit**Solanum hirtum**Solanum jasminoides**Solanum jasminoides**Solanum nigrum*

Solanum spp. (other than *S. alatum*, *S. cyananthum*, *S. dimidiatum*, *S. dubium*,
S. glaucum, *S. gracile*, *S. grossedentum*, *S. tampicense*, *S. tuberosum*, *S. viarum*
and *S. xanthocarpum*)

*insert**Solanum hirtum**Solanum jasminoides**Solanum nigrum***[19] Schedule 5**

*insert each of the following in the appropriate alphabetical position
(determined on a letter-by-letter basis)*

*Aesculus turbinata**Agropyron junceum**Agropyron repens**Aphanes arvensis**Arrhenatherum elatis**Balsamorhiza sericea**Berberis thunbergii* var.

‘Bailgreen’ (Jade Carousel)

Berberis thunbergii var.

‘Bailsel’ (Golden Carousel)

Berberis thunbergii var. ‘Tara’

(Emerald Carousel)

*Berneuxia thibetica**Bukiniczia cablica**Callicarpa cathayana**Calyptridium umbellatum**Celmisia angustifolia**Celmisia incana**Chenopodium album**Colobanthus muelleri**Craspedia alpina**Deinanthus bifida**Diphylleia grayi**Douglasia montana**Dovyalis caffra**Dryas x suendermannii**Edraianthus serpyllifolius**Elmera racemosa**Entada phasecoloides**Epimedium platypetalum**Euadenia eminens**Euphorbia fulgens**Euphorbia gymnocalycioides**Euphorbia lactea**Euphorbia nicaeensis**Euphorbia rigida**Globularia repens**Haastia palvinaris**Haloragis erecta**Heracleum mimum**Hylocereus triangularis**Iliamna rivularis**Isoplexis isabelliana**Isopyrum thalictroides**Jensenobotrya lossowiana**Kalmiopsis leachiana**Leycesteria crocothyrsos*

<i>Ligularia sachalinensis</i>	<i>Polygonum persicaria</i>
<i>Lithophragma parviflorum</i>	<i>Polyxena corymbosa</i>
<i>Lobelia bridgesii</i>	<i>Pseudodracontium amomalum</i>
<i>Lobelia excelsa</i>	<i>Pseudodracontium fallax</i>
<i>Lobelia kalmii</i>	<i>Pseudodracontium lacourii</i>
<i>Lobelia polyphylla</i>	<i>Pulsatilla rubra</i>
<i>Lobelia valida</i>	<i>Pulsatilla sukaczewii</i>
<i>Lonchocarpus violaceus</i>	<i>Ranunculus buechananii</i>
<i>Mandragora caulescens</i>	<i>Ranunculus cortusifolius</i>
<i>Markhamia obtusifolia</i>	<i>Ranunculus pachyrrhizus</i>
<i>Markhamia zanzibarica</i>	<i>Ranunculus repens</i>
<i>Massularia acuminata</i>	<i>Rhinephyllum broomii</i>
<i>Melandrium elisabethae</i>	<i>Rhodanthemum hosmariense</i>
<i>Melicytus chathamicus</i>	<i>Rumex obtusifolius</i>
<i>Millettia grandis</i>	<i>Ryparosa javanica</i>
<i>Moltkia petraea</i>	<i>Sabatia angularis</i>
<i>Mondarella purpurea</i>	<i>Scandix pecten-veneris</i>
<i>Moringa hildebrandtii</i>	<i>Senecio vulgaris</i>
<i>Musschia wollastonii</i>	<i>Shortia uniflora</i>
<i>Nebelia fragarioides</i>	<i>Solanum mammosum</i>
<i>Nymanina capensis</i>	<i>Staehelina dubia</i>
<i>Olsynium douglasii</i>	<i>Stomatium pyrodorum</i>
<i>Omphalodes luciliae</i>	<i>Syncarpia glomulifera</i>
<i>Onosma helveticum</i>	<i>Talisia oliviformis</i>
<i>Osmitopsis asteriscoides</i>	<i>Teucrium parvifolium</i>
<i>Petrocoptis glaucifolia</i>	<i>Treculia africana</i>
<i>Phyteuma sieberi</i>	<i>Trichodiadema densum</i>
<i>Piper longum</i>	<i>Uncarina grandidieri</i>
<i>Plectranthus australis</i>	<i>Vallarsia caalithifolia</i>
<i>Podalyria calyptrata</i>	<i>Vitaliana primuliflora</i>
<i>Polygonum aviculare</i>	<i>Vitex lucens</i>
<i>Polygonum lapathifolium</i>	