

## **EXPLANATORY STATEMENT**

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

*Quarantine Act 1908*

*Quarantine (Cocos Islands) Amendment Proclamation 2006 (No. 1)*

The *Quarantine (Cocos Islands) Proclamation 2004* ('the Cocos Islands Proclamation') provides the legislative basis for controlling the entry and movement of animals, plants and other goods of quarantine concern into the Cocos (Keeling) Islands ('the Cocos Islands').

Subsection 13(1) of the *Quarantine Act 1908* ('the Act') provides, in part, that the Governor-General may, by proclamation, declare or prohibit a range of matters for the purposes of the Act. The range of matters that the Governor-General may prohibit includes the introduction or importation into Australia, Christmas Island or the Cocos Islands of any disease or pest or any substance, article or thing containing or likely to contain any disease or pest; the importation into Australia, Christmas Island or the Cocos Islands of any articles or things likely, in his or her opinion, to introduce, establish or spread any disease or pest; and the importation into Australia, Christmas Island or the Cocos Islands of any animals or plants or any parts of animals or plants. The range of matters which the Governor-General may declare includes ports where particular kinds of imported goods may be landed.

Subsection 13(2) of the Act provides that the power of prohibition under section 13 of the Act 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. In addition, subsection 13(2B) of the Act states that an import permit granted pursuant to a proclamation made in accordance with subsection 13(2A) may be granted subject to compliance with any conditions or requirements set out in that permit.

The *Quarantine (Cocos Islands) Amendment Proclamation 2006 (No. 1)*:

- amends section 3 of the Cocos Islands Proclamation to remove the definition of 'canned', and insert a definition of 'retorted'. All other references to 'canned' have been replaced with 'retorted';
- amends the definition of 'hermetically sealed container' in section 3 to correct minor grammatical errors;
- amends section 16 of the Cocos Islands Proclamation to prescribe a starter culture which may be imported without an import permit;
- replaces item 8 in table 9 in section 24 of the Cocos Islands Proclamation to vary the conditions under which certain rawhide articles may be imported without an import permit;
- amends the Cocos Islands Proclamation to correct the spelling of 'gelatin' to reflect the Macquarie Dictionary spelling of 'gelatine'; and

- amends Schedule 1 of the Cocos Islands Proclamation to vary the types of quarantinable animal diseases.

No consultation has occurred on these amendments because they are of a minor or machinery nature and do not substantially change the law.

The *Quarantine (Cocos Islands) Amendment Proclamation 2006 (No. 1)* is a legislative instrument for the purposes of the Legislative Instruments Act 2003.

The *Quarantine (Cocos Islands) Amendment Proclamation 2006 (No. 1)* commences on the day after it is registered on the Federal Register of Legislative Instruments.

Details of the amendments are set out below:

Section 1 provides that the name of the Proclamation is the *Quarantine (Cocos Islands) Amendment Proclamation 2006 (No. 1)*.

Section 2 provides that the proposed 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 (Cocos Islands) Proclamation 2004* ('the Cocos Islands Proclamation').

#### Schedule 1 - Amendments

Items 1 to 3 amend definitions in section 3. Item 1 removes the definition of 'canned' and item 3 inserts a definition of 'retorted'. The purpose of these amendments is to recognise that products sealed in a can have not always been retorted. The effect of this amendment is to clarify that while canning often includes heating, that not all products sealed in a can have been heated for a period, and to a temperature, sufficient to make the contents commercially sterile. Accordingly, the amendment makes clear that the retorting process may include canning, but requires heat treatment for a time, and to a temperature, sufficient to make the contents commercially sterile. Item 2 specifically amends the definition of 'hermetically sealed container' to correct grammatical errors. The amendments to these items are for clarification purposes only.

Item 4 inserts a new item in table 7 of section 16 of the Cocos Islands Proclamation. The effect of the new item is to allow '*Rhizopus* spp.' (tempeh cultures) to be imported into Australia without an import permit provided it is not contained in a milk-based carrier, and is intended for the uses set out in subsection 16(2). *Rhizopus* spp. is considered to be of low quarantine concern.

Item 5 removes the reference to 'canned' in section 17 of the Cocos Islands Proclamation and inserts 'retorted' in its place. The purpose of this amendment is to clarify that while canning often includes heating, that not all products sealed in a can have been heated for a period, and to a temperature, sufficient to make the contents commercially sterile.

Item 6 corrects the spelling of 'gelatin' in section 21 of the Cocos Islands Proclamation to reflect the Macquarie Dictionary spelling 'gelatine'.

Item 7 replaces item 8 in table 9 of section 24 of the Cocos Islands Proclamation with a new item 8. The effect of the replacement item is to allow rawhide articles to be imported without an import permit provided the conditions set out in the new item 8 are complied with. This amendment widens the category of rawhide articles which can be imported without an import permit from 'traditional Balinese puppets' to include all rawhide articles, provided the conditions specified in the proposed item 8 are complied with. The conditions set out in the new item restrict the importation of rawhide articles to those which are intended for the personal use of the person seeking to import them. The conditions also require that the article be imported with no more than 4 other rawhide articles and that they must be treated to address any quarantine risk prior to being released from quarantine.

Item 8 corrects the spelling of 'gelatin', in table 9 of section 24 of the Cocos Islands Proclamation, to reflect the Macquarie Dictionary spelling 'gelatine'.

Items 9 and 10 remove the reference to 'canned' and inserts 'retorted' into table 9 of section 24 and into section 25 of the Cocos Islands Proclamation. The purpose of this amendment is to clarify that while canning often includes heating, that not all products sealed in a can have been heated for a period, and to a temperature, sufficient to make the contents commercially sterile.

Item 11 adds a number of aquatic animal diseases to the list contained in Schedule 1 to the Cocos Islands Proclamation. The effect of this amendment is to increase the list of quarantinable animal diseases. The addition of these quarantinable animal diseases of aquatic animals to Schedule 1 results from advice provided by Biosecurity Australia.