

EXPLANATORY STATEMENT

Select Legislative Instrument 2010 No. 12

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

Quarantine Act 1908

Quarantine Amendment Regulations 2010 (No. 1)

Section 87 of the *Quarantine Act 1908* (the Act) provides, in part, that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters which by the Act are required or permitted to be prescribed; or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Subsection 27A(2) of the Act requires the master of an overseas vessel or installation to provide prescribed information for pre-arrival and pre-departure reports to be given before arrival or departure, as appropriate, in a form approved by the Director of Quarantine within a prescribed period. Subsection 28(1) of the Act provides that a quarantine officer may require the master or medical officer of an overseas vessel or installation to answer questions about any prescribed matters.

Subregulation 10(1) of the *Quarantine Regulations 2000* (the Regulations) prescribes information for an overseas vessel the hull proper of which is 25 metres and greater and for an installation, for the purpose of subsection 27A(2) of the Act. The information prescribed by subregulation 10(1) is required to be reported by the master of an overseas vessel or installation in a form approved by a Director of Quarantine. Regulation 18 of the Regulations prescribes matters for the purpose of subsection 28(1) of the Act, including those matters about which a quarantine officer can require a master or medical officer of an overseas vessel or installation to answer questions.

The purpose of the *Quarantine Amendment Regulations 2010 (No. 1)* (the Amendment Regulations) is to amend certain prescribed information and matters in subregulation 10(1) and regulation 18 of the Regulations to improve the information being collected. This consequently improves profiling and the initial risk assessment of overseas vessels and installations arriving in Australia. Some of the amendments to subregulation 10(1) also support the implementation of an optional electronic system of lodging quarantine pre-arrival reports (QPAR) with the Australian Quarantine and Inspection Service (AQIS). The Amendment Regulations also remove outdated references and make minor and technical amendments.

AQIS, within the Department of Agriculture, Fisheries and Forestry, consulted with industry through the AQIS Industry Consultative Committee and directly with the shipping industry through Shipping Australia Ltd. The AQIS Industry Consultative Committee comprises of representatives from the following key industry sectors:

- AQIS
- Industry Working Group on Quarantine (IWGO)
- Regional Cargo Facilitation Committees/Councils
- Shipping Lines

- Stevedoring/Container Terminal and Depot Operators
- Customs Brokers
- Air/Sea Freight Forwarders
- Importers/Cargo Owners
- Airlines/Cargo Terminal Operators
- Air Express Operators/Couriers

The Border Health Section within the Department of Health and Ageing was also consulted on the Amendment Regulations.

Details of the Amendment Regulations are set out below.

Regulation 1 provides that the name of the Amendment Regulations is the *Quarantine Amendment Regulations 2010 (No. 1)*.

Regulation 2 provides that the Amendment Regulations commence on the day after they are registered.

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

Regulation 4 provides that if during a prescribed period (within the meaning given by paragraph 11(1)(a) of the Regulations) the master of a vessel or installation provides prescribed information (within the meaning given by subregulation 10(1) and regulation 18 of the Regulations) to a quarantine officer through the QPAR; and during the prescribed period the amendments made by Schedule 1 commence, the master of the vessel is not required to give a quarantine officer the information required by item 6 and items 8 to 17 of Schedule 1 during that prescribed period. The prescribed period, as provided by paragraph 11(1)(a) of the Regulations, is between 96 hours before and 12 hours before the estimated time of arrival of the vessel or installation.

Schedule 1 – Amendments

Item [1] amends regulation 4 by inserting a definition of the term ‘control measures’. The term is defined to mean measures to prevent the spread of disease. The term ‘control measures’ is consistent with the International Health Regulations (2005), that are administered by the Department of Health and Ageing. The term ‘control measures’ is used in item 12 in the table under subregulation 10(1) which requires the master of an overseas vessel or installation to report whether a Ship Sanitation Control Certificate is in force and the type of control measures applied when the certificate was issued. The term is also used in item 12 in the table under regulation 18 which requires a master to answer questions about any control measures that were applied when a Ship Sanitation Control Certificate was issued.

Item [2] amends regulation 4 by omitting the definitions of ‘deratting’, ‘Deratting Certificate’ and ‘Deratting Exemption Certificate’. These terms are no longer required because a ‘Deratting Certificate’ has been replaced with a ‘ship sanitation certificate’, which is consistent with the International Health Regulations (2005). The terms ‘ship sanitation certificate’, ‘Ship Sanitation Control Certificate’ and ‘Ship Sanitation

Control Exemption Certificate' are defined in regulation 4 (see item 4 below).

Item [3] amends regulation 4 by inserting a definition of the term 'relevant period'. The term 'relevant period' is defined to mean, for a current voyage, the period of the voyage if the voyage is for a period less than 21 days. If the voyage is for a period of 21 days or more, the term 'relevant period' means the period starting 21 days before the day the overseas vessel or installation arrived in Australia. The period of 21 days is sufficient time for biosecurity risks to materialise and be assessed.

Item [4] amends regulation 4 by substituting the definition of 'ship sanitation certificate' with new definitions for the terms 'ship sanitation certificate', 'Ship Sanitation Control Certificate' and 'Ship Sanitation Control Exemption Certificate'. The effect of this amendment is that each term will retain its definition but is now defined individually. This is necessary because each term is used independently in the Regulations.

The term 'ship sanitation certificate' is defined to mean either a Ship Sanitation Control Certificate or a Ship Sanitation Control Exemption Certificate generally.

The term 'Ship Sanitation Control Certificate' is defined to mean a certificate issued under regulation 30C or a law of a foreign country in accordance with Article 39 of the International Health Regulations (2005).

The term 'Ship Sanitation Control Exemption Certificate' is defined to mean a certificate issued under regulation 30B or a law of a foreign country in accordance with Article 39 of the International Health Regulations (2005).

Item [5] amends regulation 4 by inserting a definition of the term 'symptoms of an illness'. The term 'symptoms of an illness' is defined to include a simplified list of the same symptoms prescribed under subregulation 6(1). These symptoms are prescribed for the purpose of paragraph 22(1)(a) of the Act that requires a master of a vessel or installation, which is not performing quarantine, to notify a quarantine officer of the presence of a prescribed symptom. The simplified list includes fever, non-itchy skin rash, severe vomiting, profuse diarrhoea, bleeding, glandular swelling, loss of consciousness, coughing or difficulty breathing; and inability to move about, or disembark from, an overseas vessel or installation without assistance.

The simplified list of symptoms is prescribed information for the purpose of subsection 27A(2) of the Act. The simplified list is easier to comprehend and as a result it will be easier for the master of an overseas vessel or installation to report symptoms of an illness in the electronic transmission of the QPAR (see item 9).

Item [6] amends subregulation 10(1) by inserting a new item 1A into the table. The effect of the amendment is to require the master of an overseas vessel to report his or her full name for the purpose of subsection 27A(2) of the Act. This allows the identity of the master of an overseas vessel to be known when the master is completing an electronic transmission of the QPAR. The identity of the Master also allows AQIS to connect information from the Australian Maritime Information System. This will

allow for profiling and further assist with initial risk assessments of overseas vessels arriving in Australia.

Item [7] omits item 11 from the table in subregulation 10(1). The information prescribed by item 11 has confused masters of vessels from non-English speaking backgrounds because the word ‘plant’ is easily interpreted to mean machinery plants and not a reference to botanical plants. In addition, a review of the prescribed information under subregulation 10(1) has identified that it is not necessary for vessels with a hull which is 25 metres or more to report this information for AQIS to make an effective risk assessment. Vessels with a hull which is 25 metres or more are predominantly commercial vessels and are unlikely to have botanical plants on board.

Item [8] amends subregulation 10(1) by omitting and substituting items 12 and 13 in the table. Item 12 is no longer required because it refers to a ‘Deratting Certificate’ or ‘Deratting Exemption Certificate’, which has been replaced with a ‘Ship Sanitation Control Certificate’ and a ‘Ship Sanitation Control Exemption Certificate’. Item 13 is omitted because it refers to ship sanitation certificates generally. The new items 12 and 13 will require specific information about a Ship Sanitation Control Certificate or a Ship Sanitation Control Exemption Certificate respectively.

The new item 12 requires a master of an overseas vessel to report whether a Ship Sanitation Control Certificate is in force for the ship, the date the certificate was issued, the country and port where the certificate was issued, the control measures that were applied and details about an extension to the validity of the certificate if applicable. The new item 13 requires the master of an overseas vessel to report whether a Ship Sanitation Control Exemption Certificate is in force for the ship, the date on which the certificate was issued, the country and port where it was issued and details about an extension to the validity of the certificate if applicable. This specific information about the ship sanitation certificates allows AQIS to gather more accurate information, which will be used to build profiles and improve initial risk assessments of overseas vessels arriving in Australia.

Item [9] amends subregulation 10(1) by omitting and substituting items 15 and 16 in the table. Item 15 prescribes information about whether or not a person on board an overseas vessel or installation is suffering from an illness for the purpose of subsection 27A(2) of the Act. Item 16 prescribes information about whether or not a person on board an overseas vessel or installation is displaying symptoms of an illness for the purpose of subsection 27A(2) of the Act. Information on the kinds of symptoms persons are displaying will support an effective initial risk assessment of human health biosecurity risks.

The term ‘symptoms of an illness’ is defined to include a simplified list of the same symptoms prescribed under subregulation 6(1). These symptoms are prescribed for the purpose of paragraph 22(1)(a) of the Act that requires a master of a vessel or installation, which is not performing quarantine, to notify a quarantine officer of the presence of a prescribed symptom. The simplified list of symptoms will be available for the master or medical officer of an overseas vessel or installation to select in the electronic QPAR. The simplified list of symptoms is easier for masters or medical officers from non-English speaking countries to comprehend compared to the list of prescribed symptoms under subregulation 6(1).

Item [10] amends subregulation 10(1) by omitting and substituting item 22 in the table. The new item 22 prescribes information about the agent of the overseas vessel or installation, including the name of the agent, the name of the port or place where the agent is located and the agent's contact details. This information will allow AQIS to easily identify the specific agent that is dealing with the overseas vessel or installation. Many shipping agencies have offices in a number of ports around Australia. The requirement for the master to report the location of the shipping agent, in addition the agent's name and contact details, will provide AQIS with more accurate information. The amendment to item 22 will also support the implementation of the electronic transmission of the QPAR. Agent information reported on the electronic QPAR will be matched with data stored in the AQIS Vessel Monitoring System.

Item [11] amends regulation 18 by inserting a new item 1A into the table. The effect of the amendment is to require the master of an overseas vessel to provide his or her full name when asked by a quarantine officer pursuant to subsection 28(1) of the Act. The identity of the Master allows AQIS to connect information from the Australian Maritime Information System. This will assist with profiling and initial risk assessments of overseas vessels arriving in Australia.

Item [12] amends regulation 18 by omitting items 6 and 7 and substituting them with new items 6, 7 and 7A in the table.

The amendment to item 6 in the table will not change what is prescribed by item 6, but will prescribe additional matters for the purpose of subsection 28(1) of the Act. The amendment will require the master of an overseas vessel or installation, when asked by a quarantine officer pursuant to subsection 28(1), to provide additional information as to the number of crew members on board the overseas vessel or installation before each crew change at a port of call in Australia, Christmas Island or the Cocos (Keeling) Islands. This information will assist AQIS to allocate appropriate resources to each overseas vessel or installation arriving in Australia.

The matters prescribed by the current item 7 are replicated in the new items 7 and 7A, but the new items 7 and 7A will also require the master of an overseas vessel or installation, when asked by a quarantine officer pursuant to subsection 28(1) of the Act, to provide information as to the number of passengers on board the overseas vessel or installation before the passengers disembark at a port of call in Australia, Christmas Island or Cocos (Keeling) Islands. Substituting the current item 7 with new items 7 and 7A will also allow for a distinction to be made between passengers who disembark for the purpose of a day trip and passengers who disembark for a purpose other than a daytrip. Passengers who disembark for a purpose other than a daytrip require a different level of biosecurity assessment. The distinction will assist AQIS to allocate the appropriate resources to each overseas vessel or installation arriving in Australia.

Item [13] amends item 11 in the table under regulation 18 by inserting the word 'botanical' before the first mention of the word 'plants'. The effect of this amendment is to clarify that item 11 is referring to botanical plants. This will reduce the amount

of false declarations as some masters from non-English speaking backgrounds interpret the word ‘plants’ to mean machinery plants and not botanical plants.

Item [14] amends regulation 18 by omitting and substituting items 12 and 13 in the table. Item 12 is no longer required because it refers to a ‘Deratting Certificate’ or ‘Deratting Exemption Certificate’, which has been replaced with a ‘Ship Sanitation Control Certificate’ and a ‘Ship Sanitation Control Exemption Certificate’. Item 13 is omitted because it refers to ship sanitation certificates generally. The new items 12 and 13 require the master of an overseas vessel, when asked by a quarantine officer pursuant to subsection 28(1) of the Act, to provide specific information about a Ship Sanitation Control Certificate or a Ship Sanitation Control Exemption Certificate respectively.

The new item 12 requires a master of an overseas vessel to answer questions about whether a Ship Sanitation Control Certificate is in force for the ship, the date the certificate was issued, the country and port where the certificate was issued, the control measures that were applied and details about an extension to the validity of the certificate if applicable. The new item 13 requires the master of an overseas vessel to answer questions about whether a Ship Sanitation Control Exemption Certificate is in force for the ship, the date on which the certificate was issued, the country and port where it was issued and details about an extension to the validity of the certificate if applicable. This specific information about the ship sanitation certificates will allow AQIS to gather more accurate information, which will be used to build profiles and improve initial risk assessments of overseas vessels arriving in Australia.

Item [15] amends regulation 18 by inserting new items 16A and 16B into the table. Item 16A requires the master of an overseas vessel or installation, when asked by a quarantine officer pursuant to subsection 28(1) of the Act, to answer questions about whether or not a person on board the overseas vessel or installation during the relevant period was suffering from diarrhoea or gastrointestinal illness. Item 16B requires the master of an overseas vessel or installation, when asked by a quarantine officer pursuant to subsection 28(1) of the Act, to answer more targeted questions if a person or persons were found suffering from diarrhoea or gastrointestinal illness. This information will be used by AQIS to improve risk assessments of overseas vessels or installations, in particular cruise vessels, arriving in Australia that may present human health biosecurity risks.

Item [16] amends regulation 18 by substituting item 20 in the table. Item 20 is amended to prescribe additional information for the purpose of subsection 28(1) of the Act. The effect of the amendment is to require the master of an overseas vessel or installation, when asked by a quarantine officer pursuant to subsection 28(1) of the Act, to answer questions about whether or not waste will be discharged at a port of call in Australia, Christmas Island or the Cocos (Keeling) Islands. If waste is to be discharged the Master must answer questions about the volume of waste in cubic metres that will be discharged at the port. This information will be used by AQIS to improve initial risk assessments of overseas vessels and installations arriving in Australia. The information will also assist AQIS to allocate appropriate resources to each overseas vessel or installation arriving in Australia.

Item [17] amends regulation 18 by omitting and substituting item 22 in the table. Item 22 requires the master of an overseas vessel or installation, when asked by a quarantine officer pursuant to subsection 28(1) of the Act, to answer questions about the agent of the overseas vessel or installation; including the name of the agent, the name of the port or place where the agent is located and the agent's contact details. This information will allow AQIS to easily identify the specific agent that is dealing with the overseas vessel or installation. Many shipping agencies have offices in a number of ports around Australia. The requirement for the master to answer questions about the location of the shipping agent, in addition to the agent's name and contact details, will provide AQIS with more accurate information.

Item [18] omits regulation 24 because it is no longer required. Regulation 24 provided when a quarantine officer must issue a Deratting Certificate or a Deratting Exemption Certificate for a vessel or installation. Deratting certificates have been replaced with ship sanitation certificates, which is in line with the International Health Regulations (2005). Ship sanitation certificates are provided for under Division 4 of the Regulations.