

EXPLANATORY STATEMENT

Issued by the Authority of the Parliamentary Secretary for Agriculture, Fisheries and Forestry

Quarantine Act 1908

Quarantine Amendment Proclamation 2012 (No. 1)

Legislative Authority

Section 13 of the *Quarantine Act 1908* (Act) provides that the Governor-General may, by proclamation, declare or prohibit a range of matters for the purposes of the Act. These matters include prohibiting the introduction or importation into Australia of any disease or pest or any substance. Matters also include prohibiting the importation of any animals or plants, or parts of animals or plants; any articles or things containing or likely to contain any disease or pest; and any articles or things that are likely, in the Governor-General's opinion, to introduce, establish or spread any disease or pest.

Subsection 13(2) of the Act provides that the power of prohibition 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.

Background

The *Quarantine Proclamation 1998* (Quarantine Proclamation) provides the legislative basis for controlling the entry of animals, plants and other goods of quarantine concern into Australia, and for controlling the movement of animals, plants or other goods of quarantine interest between different parts of the Australian mainland.

Subsection 63(1) of the Quarantine Proclamation provides that the importation into Australia of a seed (other than a seed of a kind of plant mentioned in Schedule 5 to the Quarantine Proclamation) is prohibited unless a Director of Quarantine has granted a permit for its importation. Schedule 5 to the Quarantine Proclamation lists all the seed species that have been assessed as "permitted seeds". The effect of section 63 is to allow seed species listed in Schedule 5 to be imported into Australia without an import permit.

Purpose and Impact

The purpose of the *Quarantine Amendment Proclamation 2012 (No. 1)* (Amendment Proclamation) is to update the list of seed species in Schedule 5 to the Quarantine Proclamation that may be imported into Australia without a permit.

The Amendment Proclamation amends Schedule 5 to the Quarantine Proclamation by inserting 519 seed species and removing 13 seed species. These amendments reflect recent species risk assessments conducted by the Plant Division of the Department of Agriculture, Fisheries and Forestry.

The Amendment Proclamation also corrects the spelling of five seed species currently listed in Schedule 5 with incorrect spelling.

The Amendment Proclamation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Consultation

The Office of Best Practice Regulation (OBPR) was consulted by DAFF and confirmed that the amendments to remove seed species from the list and correct spelling are of a minor and machinery nature and have no substantial direct or indirect impact on business. The amendments adding seed species to the list have a standing approval from OBPR.

Operation

Details of the Amendment Proclamation are set out below:

Section 1 provides that the name of the Amendment Proclamation is the *Quarantine Amendment Proclamation 2012 (No. 1)*.

Section 2 provides that the Amendment 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 Proclamation 1998*.

Schedule 1 - Amendments

Item 1 removes 13 seed species from the ‘permitted seeds’ list in Schedule 5 to the Quarantine Proclamation.

Significant disease and weed risks have been identified and the listed seed species have therefore been recently reassessed by the Plant Division. These species have been identified as being a host for Chestnut Blight or have been assessed as weed threats to the Australian ecosystem.

The effect of the amendment is to prohibit the importation of the seed species without an import permit. Importers will be required to apply for an import permit and the seed species will be subject to quarantine conditions determined by a Director of Quarantine to manage the risk associated with the import of these species.

Items [2] to [4] correct the spelling of five seed species listed in Schedule 5 to the Quarantine Proclamation. The incorrectly spelt seed species *Alcanrarea heloisae*, *Alcanrarea nahoumii*, *Alcanrarea vinicolor*, *Beschorneria yucciodes* and *Syagrus marocarpa* are omitted and reinserted as *Alcantarea heloisae*, *Alcantarea nahoumii*, *Alcanrarea vinicolor*, *Beschorneria yuccoides* and *Syagrus macrocarpa* respectively. These species have been reinserted in their appropriate alphabetical position as per drafting standards, to ensure application of a consistent alphabetical format throughout the Schedule 5 list.

Item 5 inserts 519 new seed species into the ‘permitted seeds’ list in Schedule 5 to the Quarantine Proclamation. The seed species have been inserted in their appropriate alphabetical position as per drafting standards, to ensure application of a consistent alphabetical format throughout the Schedule 5 list. These seed species for inclusion are added to the list as a result of assessments carried out in response to importer requests. All seed species for inclusion in this amendment have been assessed by the Plant Division as presenting minimal risk of introducing pests or becoming a weed in Australia.

Where a seed species is present in Australia and is not listed as being a weed, or considered to present a risk of becoming a weed, by any of the state or territory governments, assessments are undertaken by the Plant Quarantine Operations Branch of the Plant Division. These species would be added to the list in the Schedule 5 of Quarantine Proclamation without a Weed Risk Assessment being undertaken (see below for an explanation of this process). In undertaking an assessment, Plant Quarantine Operations utilises several sources including:

- online herbariums and industry publications to validate that the plant name is a valid and/or widely accepted one;
- online herbariums, industry publications, nursery catalogues and commercial invoices as proof that the seed species are present in Australia or has previously been imported; and
- state and territory government weeds lists to check the control status of the seed species.

Seed species have been referred to the Plant Biosecurity Branch of the Plant Division for assessment, where Plant Quarantine Operations found no evidence that a seed species is:

- (i) present in Australia; and/or
- (ii) identified as being a weed; or
- (iii) considered to present a risk of being a weed, by a state or territory government.

On referral, Plant Biosecurity has undertaken a Weed Risk Assessment on these species. This involves a question based scoring method relating to the seed species’ climatic preferences, biological attributes and reproductive and dispersal method. The score generated determines an outcome of ‘accept’, ‘reject’ or ‘further evaluate’. The Weed Risk Assessment makes a prediction as to whether a seed species may be a weed that may pose a risk to agriculture or the environment.

The effect of this item is that importers no longer require an import permit for these species. Removing the need to obtain an import permit enables import free of the administrative or cost burden that may be associated with obtaining such a permit.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Quarantine Amendment Proclamation 2012 (No. 1)

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The Legislative Instrument amends the list of permitted seeds in Schedule 5 to the *Quarantine Proclamation 1998*. The permitted seeds list in the Schedule lists all of the seed species which may be imported into Australia without an import permit. The Legislative Instrument amends the Schedule by inserting 519 seed species and removing 13 seed species. It also corrects the spelling of five seed species currently listed in Schedule 5 with incorrect spelling. The purpose of the legislative instrument is to update the list of permitted seeds in Schedule 5. It was last amended in June 2011.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**The Hon. Peter Douglas Sidebottom MP, Parliamentary Secretary for Agriculture,
Fisheries and Forestry**