

EXPLANATORY STATEMENT

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

Quarantine Act 1908

Quarantine Amendment Proclamation 2013 (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.

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

The purpose of the *Quarantine Amendment Proclamation 2013 (No. 1)* (Amendment Proclamation) is to update Schedule 5 to the Quarantine Proclamation. The Amendment Proclamation amends Schedule 5 to the Quarantine Proclamation by inserting 380 seed species, omitting 57 seed species and correcting the spelling of seven seed species. These amendments reflect recent outcomes of seed species risk assessments conducted by the Department of Agriculture, Fisheries and Forestry (DAFF) and serve to correct typographical errors and remove duplicated entries.

Background

DAFF assesses and manages the risks associated with the importation of seed species into Australia, particularly whether they pose significant risks of introducing pests or diseases, or

becoming weeds in the Australian environment. Seed species risk assessments are conducted by DAFF on a regular basis as part of the new plant import application process or when there are potential risks identified with certain pests and diseases entering Australia.

Seed species listed as ‘permitted seeds’ in Schedule 5 to the Quarantine Proclamation have been assessed as posing a level of risk that achieves Australia’s Appropriate Level of Protection (ALOP) in regards to their potential to introduce pests or diseases, or become weeds in Australia and therefore they may be imported into Australia without an import permit.

These permitted seeds may be reassessed where significant pest, disease, or weed risks are identified in relation to the seed species. Seed species reassessed as posing a level of risk that does not achieve Australia’s ALOP are removed from the list of ‘permitted seeds’. Seed species that are not ‘permitted seeds’ require an import permit and are subject to quarantine conditions as determined by the Director of Quarantine to manage the risks associated with their importation.

Where a seed species is present in Australia and is not a listed weed, or considered to present a risk of becoming a weed by a state or territory government, risk assessments are undertaken by DAFF to determine the pest and disease risks associated with importing the seed species. Where the risks associated with the seeds are at a level that achieves Australia’s ALOP, the seed species can be added to the ‘permitted seeds’ list without undertaking a Weed Risk Assessment. In undertaking an assessment, DAFF 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 is 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 may be subjected to a Weed Risk Assessment by DAFF if they are not:

- (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.

The conduct of a Weed Risk Assessment involves the use of a question-based scoring methodology relating to the seed species’ climatic preferences, biological attributes and reproductive and dispersal method. The score generated is used to determine whether a seed species should be accepted or rejected for addition into the ‘permitted seeds’ list, or further evaluated. The Weed Risk Assessment predicts whether a seed species may become a weed that poses significant risks to the Australian environment or agriculture.

Impact and Effect

The Amendment Proclamation will better align the regulatory oversight with the risks associated with the importation of seeds species into Australia as assessed by DAFF. The amendment inserts 380 seed species in the ‘permitted seeds’ list, which have been assessed as posing a level of risk that achieves Australia’s ALOP in regards to their potential to introduce

pests or diseases, or become weeds in the Australian environment. Removing the requirement for an import permit for these seed species abrogates administrative, regulatory and cost burdens to importers that may be associated with obtaining such a permit.

The Amendment Proclamation also omits 57 seed species from the 'permitted seeds' list. This includes the omission of 35 seed species that have been assessed as posing a level of risk that does not achieve Australia's ALOP in regards to their potential to introduce pests or diseases, or become weeds in Australia. These species have either been identified as hosts for *Pepper chat fruit viroid* and *Potato spindle tuber viroid*, or have been reassessed as weed threats to the Australian environment. *Pepper chat fruit viroid* and *Potato spindle tuber viroid* cause diseases in tomato and potato and are readily transmissible through contact and abrasion from seed surfaces to seedlings.

The importation of seeds that are no longer listed as 'permitted seeds' will require an import permit and be subject to quarantine conditions determined by the Director of Quarantine, to manage the risks associated with their importation. The remaining 22 seed species for omission are seed species that are either duplicated entries with incorrect spelling or duplicated entries with correct spelling.

In addition, the Amendment Proclamation also substitutes seven incorrectly spelt seed species with the correct spelling.

Consultation

The Office of Best Practice Regulation (OBPR) was consulted by DAFF and has confirmed that the amendments to omit seed species from the 'permitted seeds' list and correct spelling are of a minor and machinery nature and have no substantial direct or indirect impact on business (OBPR Reference Number 14568). The amendments to add seed species to the 'permitted seeds' list have a standing approval from OBPR (OBPR Reference Number 12293).

The Amendment Proclamation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*. The amendment is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in the [Attachment](#).

Details/Operation

Section 1 – Name of Proclamation

This Section provides that the name of the amendment proclamation is the *Quarantine Amendment Proclamation 2013 (No. 1)*.

Section 2 – Commencement

This Section provides for the Proclamation to commence on the day after registration.

Section 3 – Authority

This Section provides that the Proclamation is made under section 13 of the *Quarantine Act 1908*.

Section 4 – Schedule(s)

This Section provides for Schedule 1 to amend the *Quarantine Proclamation 1998* (Quarantine Proclamation).

Schedule 1 – Amendments

Items 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 24, 26, 28, 30, 35, 37, 39, 41, 43, 45, 47, 49, 51, 53 and 55 insert 380 seed species to the ‘permitted seeds’ list in Schedule 5 to the Quarantine Proclamation.

The purpose of the amendment is for importers to no longer be required to obtain an import permit for these seed species because they have been assessed by the Department of Agriculture, Fisheries and Forestry (DAFF) as posing a level of risk that achieves Australia’s ALOP in regards to their potential to introduce pests or diseases, or become weeds in Australia. Removing the need to obtain an import permit for these seed species enables their importation free of the administrative, regulatory or cost burdens that may be associated with obtaining import permits.

Items 2, 6, 18, 21, 23, 27, 31, 32, 33, 34, 38, 46, 48, 50 and 54 omit 22 seed species from Schedule 5 to the Quarantine Proclamation.

The purpose of the amendment is to remove 22 seed species that are either duplicated entries with incorrect spelling or duplicated entries with correct spelling. The duplicated entries with incorrect spelling that will be removed are *Guzmania calamifloia*, *Neoregelia angustibracteolata*, *Neoregelia bridgadeirensis*, *Neoregelia leucophea* and *Teucrium arduinoi*. The duplicated entries with correct spelling for the following seed species will also be removed: *Andrea spectabilis*, *Aregelia leucophoea*, *Karatas leucophoea*, *Lebeckia sepiaria*, *Mezobromelia capituligera*, *Neoregelia cathcartii*, *Neoregelia coimbrae*, *Neoregelia coriacea*, *Neoregelia crispata*, *Neoregelia lactea*, *Neoregelia longisepala*, *Neoregelia menescalii*, *Neoregelia seideliana*, *Nidularium leucophoeum*, *Quercus glaucescens*, *Saxifraga x canis-dalmatica* and *Vriesea x retroflexa*.

Items 4, 8, 12, 22, 25, 29, 44 and 52 omit 35 seed species from Schedule 5 to the Quarantine Proclamation.

The purpose of the amendment is to remove 35 seed species from the ‘permitted seeds’ list. This includes the removal of *Capsicum* seed species assessed by DAFF as potential hosts for both the *Pepper chat fruit viroid* and *Potato spindle tuber viroid*. These viroids cause diseases in tomato and potato and are readily transmissible through contact and abrasion from seed surfaces to seedlings.

The remaining seed species listed for removal were assessed by DAFF as posing a level of risk that does not achieve Australia’s ALOP in regards to their potential to become weeds in Australia. The effect of the removal of these 35 seed species will be to prohibit the importation of these seed species without an import permit. Importers will be required to apply for an import permit and these 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 10, 14, 16, 20, 36, 40 and 42 correct seven incorrectly spelt seed species in the ‘permitted seeds’ list as follows:

Incorrect spelling	Correct spelling
<i>Billbergia leitzei</i>	<i>Billbergia lietzei</i>
<i>Cerbera odollan</i>	<i>Cerbera odollam</i>
<i>Cryptanthus leopoldo-horstii</i>	<i>Cryptanthus leopoldo-horstii</i>
<i>Horminium pyrenaicum</i>	<i>Horminum pyrenaicum</i>
<i>Nidularium eximum</i>	<i>Nidularium eximium</i>
<i>Pistacia lenticus</i>	<i>Pistacia lentiscus</i>
<i>Pitcairnia intergrifolia</i>	<i>Pitcairnia integrifolia</i>

The purpose of the amendment is to correct typographical errors.

Statement of Compatibility with Human Rights

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

Quarantine Amendment Proclamation 2013 (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 Schedule 5 lists all of the seed species which may be imported into Australia without an import permit. The Legislative Instrument amends Schedule 5 by inserting 380 seed species and omitting 57 seed species. It also corrects the spelling of seven 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 2012.

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