

EXPLANATORY STATEMENT

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

Quarantine Act 1908

Quarantine Amendment Proclamation 2013 (No. 2)

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 including prohibiting the importation into Australia of any disease or pest or any substance containing any disease or pest, any articles or things likely to introduce, establish or spread any disease or pest, or any animals, plants or other goods.

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.

Purpose

The purpose of the *Quarantine Amendment Proclamation 2013 (No. 2)* (Amendment Proclamation) is to allow low risk, high volume items containing ingredients of animal origin that are commercially prepared and packaged and intended for the personal use of the person wishing to import them, to be imported into Australia without requiring an import permit. The newly permitted items include meat jerky or biltong, mooncakes (containing egg but not meat) and manufactured articles containing oyster shells, all of which have been assessed by the Department of Agriculture, Fisheries and Forestry (DAFF) as achieving Australia's Appropriate Level of Protection (ALOP) in regards to their potential risks of introducing pests or diseases.

Background

The *Quarantine Proclamation 1998* (1998 Proclamation) is made under section 13 of the Act and deals primarily with things (including any goods) that cannot be imported into Australia, and restrictions on the movement of things within Australia.

Part 6 of the 1998 Proclamation deals with animal quarantine and provides that imports are prohibited without an import permit unless otherwise specified in the 1998 Proclamation.

Subsection 38(1) of the 1998 Proclamation provides that the importation into Australia of a dead animal or animal part (except an animal or part to which subsection 38(2) applies) is prohibited unless a Director of Quarantine has granted a permit to import the animal or animal part into Australia. Subsection 38(2) of the 1998 Proclamation applies to the animals or animal parts mentioned in the items in table 13 and which comply with any of the restrictions or conditions set out in those items.

Subsection 41(1) of the 1998 Proclamation provides that the importation of eggs, egg products and goods that include egg or an egg product among their ingredients, whether for human consumption or not, is prohibited unless a Director of Quarantine has granted a permit to import the goods or things into Australia, whereas subsection 41(2) provides a list of egg products that do not require an import permit.

Impact and Effect

The Amendment Proclamation amends table 13 to section 38 and subsections 41(1) and 41(2) of the 1998 Proclamation to remove the import permit requirement for meat jerky or biltong, mooncakes (containing egg but not meat) and manufactured articles containing oyster shells, subject to meeting the conditions as outlined in Schedule 1 – Amendments of the *Quarantine Proclamation 1998*.

The Amendment Proclamation reduces the current administrative burden associated with managing interactions with air and sea passengers and senders of mail, detained goods and complaint handling in relation to low risk, high volume items that would otherwise be subject to inspection and seizure or treatment.

The Amendment Proclamation is part of a further review of previous amendments entitled *Quarantine Amendment Proclamation 2011 (No. 2)* and *Quarantine Amendment Proclamation 2012 (No. 2)*.

Consultation

DAFF Biosecurity Animal Division, Biological Imports and Imported Food Programs provided risk assessment advice confirming that the Amendment Proclamation is required due to the identified items having been assessed as achieving Australia's ALOP in regards to their potential risks of introducing pests or diseases, and therefore an import permit is not required if the items comply with the specified conditions.

The National Farmers Federation (NFF) was provided with an industry brief and verbal advice on 20 November 2012 regarding the amendments. The DAFF Liaison Officer to the NFF was also informed and discussions have been held to discuss the amendments to the Proclamation. No concerns have been raised by the NFF.

The Office of Best Practice Regulation (OBPR) was consulted and has considered that the amendments to be of minor impacts and therefore a Regulation Impact Statement is not required (OBPR Reference Number: 14429).

The Office of Parliamentary Counsel (OPC) was consulted in the development of this legislative instrument.

The Statement of Compatibility with Human Rights is contained in the [Attachment](#).

Operation

Details of the *Quarantine Amendment Proclamation 2013 (No. 2)* are set out below.

Section 1 – Name of Proclamation

This Section provides for the name of the Amendment Proclamation to be the *Quarantine Amendment Proclamation 2013 (No. 2)*.

Section 2 – Commencement

This Section provides for the Amendment Proclamation to commence on the day after it is registered on the Federal Register of Legislative Instruments.

Section 3 – Authority

This Section provides for the Amendment Proclamation to be 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* (1998 Proclamation).

Schedule 1 – Amendments of the *Quarantine Proclamation 1998*

Item 1 substitutes the words “oyster shell” with the words “oyster shells that are not part of a manufactured article” under item 24 of table 13 to section 38 of the 1998 Proclamation.

The amendment broadens the exception under item 24 of table 13 to section 38 to allow the importation of oyster shells that are part of a manufactured article, provided they meet the new conditions below at Item 2.

Item 2 inserts new item 24A after item 24 of table 13 to section 38 of the 1998 Proclamation to allow for the importation of manufactured articles containing oyster shells, if free of insects, soil and other debris.

The amendment allows for manufactured articles containing oyster shells to be imported for both personal and commercial consignments without requiring an import permit provided they comply with the restrictions outlined above. However, the importation of oyster shells, either whole or part, which are not part of a manufactured article still requires an import permit for both personal and commercial consignments entering Australia.

Item 3 repeals item 38 of table 13 to section 38 of the 1998 Proclamation and replaces it with new items 38 and 39 below.

New item 38 allows for meat jerky or biltong (other than from avian meat) to be imported without requiring an import permit if the product is shelf stable, imported in an amount up to

1 kilogram, manufactured in a country on the DAFF foot and mouth disease (FMD) Approved Country List and is for the personal consumption of the person wishing to import the product.

New item 39 allows for meat jerky or biltong (from avian meat) to be imported without requiring an import permit if the product is shelf stable, imported in an amount up to 1 kilogram and is for the personal consumption of the person wishing to import the product. As birds are not susceptible to FMD, the requirement that the product must be manufactured in a country on the DAFF FMD Approved Country List does not apply to meat jerky or biltong made from avian meat.

The amendment broadens the exception under item 38 of table 13 to section 38 of the 1998 Proclamation for the importation of beef jerky, by substituting it with two new items 38 and 39 above.

Item 4 omits the words “, including mooncakes,” under item 3 of the table to subsection 41(1) of the 1998 Proclamation.

The amendment allows for the importation of mooncakes without requiring an import permit, subject to meeting the conditions in the new item 10 below.

Item 5 inserts a new item 10 at the end of subsection 41(2) of the 1998 Proclamation to allow for the importation of mooncakes containing egg but not meat if the product is shelf stable and for the personal consumption of the person wishing to import the product.

The amendment allows for the importation of mooncakes containing egg but not meat without requiring an import permit if it complies with the restrictions outlined above. DAFF has assessed these products as achieving Australia’s ALOP in relation to their potential risks of introducing pests or diseases as they are low risk processed items, imported in low quantities due to seasonal availability and unlikely to be fed to birds.

Mooncakes containing egg and meat requires an import permit whether imported for personal or commercial use. While mooncakes are unlikely to be fed to birds (reducing the risk associated with mooncakes containing eggs) there is the possibility that mooncakes could be fed to FMD-susceptible species, particularly pigs. Because mooncakes are primarily going to be imported from countries throughout Asia, the majority of which are known to be affected by FMD, mooncakes containing meat present an unacceptable risk.

ATTACHMENT

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. 2)

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

This Legislative Instrument amends table 13 of section 38 and subsections 41(1) and 41(2) of the *Quarantine Proclamation 1998* to remove the import permit requirement for specific items of animal origin.

This Legislative Instrument allows low risk, high volume items that contain ingredients of animal origin that are commercially prepared and packaged, to be imported into Australia without requiring an import permit, subject to meeting the specified conditions. The items have been assessed by the Department of Agriculture, Fisheries and Forestry (DAFF) as achieving Australia's Appropriate Level of Protection (ALOP) in regards to their potential risks of introducing pests or diseases. The Legislative Instrument reduces the administrative burden associated with managing interactions with incoming air and sea passengers and senders of mail, detained goods and complaint handling in relation to the low risk, high volume items which would otherwise be subject to inspection and seizure or treatment.

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. Joel Fitzgibbon MP
Minister for Agriculture, Fisheries and Forestry