

EXPLANATORY STATEMENT

Issued by Authority of the Minister for Agriculture

Quarantine Act 1908

Quarantine Legislation Amendment (2014 Measures No. 1) Proclamation 2014

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; any animals or plants, or parts of animals or plants; any articles or things containing or likely to contain any disease or pest; any articles or things that are likely to introduce, establish or spread any disease or pest; and for the declaration of first ports of entry and ports where particular kinds of imported goods may be landed.

Subsection 13(2) of the Act provides that the power of prohibition extends to absolute prohibition or prohibition 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 mainland Australia (including from Christmas Island and Cocos (Keeling) Islands).

The Quarantine (Christmas Island) Proclamation 2004 (Christmas Island Proclamation) and the Quarantine (Cocos Islands) Proclamation 2004 (Cocos Islands Proclamation) provide the legislative basis for controlling the entry of animals, plants and other goods of quarantine concern into Christmas Island and Cocos (Keeling) Islands.

Purpose

The purpose of the *Quarantine Legislation Amendment (2014 Measures No. 1) Proclamation 2014* (Amendment Proclamation) is to:

- remove the Readers' Guides from each Proclamation to reflect current legislative drafting practice
- align the names of ports listed in Quarantine Proclamation, the Christmas Island Proclamation and the Cocos Islands Proclamation with the names of ports appointed by the Chief Executive Officer of the Australian Customs and Border Protection Service (ACBPS) under subsection 15(1) of the *Customs Act 1901* (Customs Act)
- remove prescriptive requirements in the Quarantine Proclamation for the import of cats and dogs from New Zealand
- update the species of seeds in Schedule 5 to the Quarantine Proclamation that may be imported into mainland Australia without a permit.

Impact and Effect

The Amendment Proclamation will align the names of ports where overseas vessels and aircraft must arrive and where particular imported goods may be unloaded, with the ports appointed by the Chief Executive Officer of the ACBPS. This will provide consistency for industry which currently uses different names on pre-arrival documentation required by the Department of Agriculture (Department) and the ACBPS. The changes would have no impact on operations but would reduce red tape for industry and the Department.

The amendments will also give effect to an arrangement between Australia and New Zealand to simplify the export of cats and dogs from New Zealand to Australia by removing the prescriptive requirements for these imports.

The Amendment Proclamation will add 142 seed species to Schedule 5 to the Quarantine Proclamation. Schedule 5 lists all seed species which have been assessed by the Department as posing a level of risk that does not exceed Australia's Appropriate Level of Protection (ALOP) in regards to their potential to introduce pests or diseases in Australia. Seed species listed as 'permitted seeds' in Schedule 5 may be imported into Australia without an import permit and removing the requirement for an import permit for these species removes administrative, regulatory and cost burdens to importers associated with obtaining such a permit.

The Amendment Proclamation also omits five seed species from the 'permitted seeds' list in Schedule 5 to the Quarantine Proclamation to reflect the assessment or reassessment of risk. These seed species will require an import permit and will be subject to quarantine conditions as determined by the Director of Quarantine to manage the risks associated with their importation. The Amendment Proclamation also omits one seed species due to incorrect spelling.

Consultation

Consultation on the alignment of port names occurred with the ACBPS. The changes will streamline pre-arrival documentation and allow improved compatibility between both agencies' systems and improve communication flow.

Consultation was conducted relating to the policy review on the importation of live domestic cats and dogs. The Department consulted with the New Zealand Department of Primary Industries relating to the health criteria which must be met by imported cats and dogs which must be accompanied by a health certificate.

Addition and deletion of species in the list of permitted seeds in Schedule 5 of the Quarantine Proclamation occurs after formal assessment of the seeds by the Department. Species for addition are assessed following requests from industry and individuals who wish to import species not currently approved. Species which are identified as potential weed threats are assessed for deletion from the Schedule, and industry is notified accordingly.

The Office of Best Practice Regulation (OBPR) was consulted by the Department in relation to the changing of port names and the requirements for importation of cats and dogs from New Zealand. OBPR confirmed that the amendments have no substantial direct or indirect impact on business (OBPR Reference Numbers 16186 and 16287).

Amendments to add and remove seed species from the ‘permitted seeds’ list have standing approval from OBPR (OBPR Reference Numbers 12293 and 15278).

The Amendment Proclamation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*. It 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 Legislation Amendment (2014 Measures No. 1) Proclamation 2014*.

Section 2 – Commencement

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

Section 3 – Authority

This section provides that the Amendment Proclamation is made under the *Quarantine Act 1908*.

Section 4 – Schedule(s)

This section provides that any instruments specified in Schedule 1 to the Amendment Proclamation are repealed or amended as set out in the Schedule.

Schedule 1 – Amendments

Quarantine (Christmas Island) Proclamation 2004

Item 1 repeals the Readers guide in the Christmas Island Proclamation.

This amendment aligns the Christmas Island Proclamation with current legislation drafting practice which is for readers guides to be provided outside the legislation itself.

Item 2 repeals section 7 of the Christmas Island Proclamation.

The purpose of the amendment is to serve as a consequential amendment to the repeal of the Readers guide to the Christmas Island Proclamation (see item 1) and remove provisions that duplicate section 13 of the *Acts Interpretation Act 1901*.

Item 3 replaces section 8 of the Christmas Island Proclamation with a new section 8 which provides that the port of Christmas Island is a first port of entry for all overseas vessels (other than aircraft) arriving at Christmas Island.

The purpose of the amendments is to align the names of first ports of entry for Christmas Island with the names appointed under subsection 15(1) of the Customs Act.

The effect of the amendment is to consolidate all of the first ports of entry previously listed in section 8 of the Christmas Island Proclamation (Flying Fish Cove, Nui-Nui and Smith Point) into one first port of entry, Christmas Island.

Item 4 replaces section 10 of the Christmas Island Proclamation with a new section 10 which provides that the port of Christmas Island and Christmas Island International Airport are ports where imported animals, plants or other goods may be landed.

The purpose of the amendment is to align the names of ports where imported animals, plants or other goods may be landed with the names appointed under subsection 15(1) of the Customs Act.

The effect of the amendment is to consolidate four of the ports previously listed in section 10 of the Christmas Island Proclamation (Christmas Island International Airport, Flying Fish Cove, Nui-Nui and Smith Point) into one port, Christmas Island. The amendment retains Christmas Island International Airport as a port where imported animals, plants or other goods may be landed.

Quarantine (Cocos Islands) Proclamation 2004

Item 5 repeals the Readers guide in the Cocos Islands Proclamation.

This amendment aligns the Cocos Islands Proclamation with current legislation drafting practice which is for Readers guides to be provided outside the legislation itself.

Item 6 repeals section 7 of the Cocos Islands Proclamation.

The purpose of the amendment is to serve as a consequential amendment to the repeal of the Readers guide to the Cocos Islands Proclamation (see item 5) and remove provisions that duplicate section 13 of the *Acts Interpretation Act 1901*.

Item 7 replaces section 8 of the Cocos Islands Proclamation with a new section 8 which provides that the port of Cocos Island is a first port of entry for all overseas vessels (other than aircraft) arriving at Cocos Islands.

The purpose of the amendments is to align the names of first ports of entry for Cocos Islands with the names of ports appointed under subsection 15(1) of the Customs Act.

The effect of the amendment is to consolidate all of the first ports of entry previously listed in section 8 of the Cocos Islands Proclamation (Blue Holes, Port Refuge, Home Island and West Island) into one first port of entry, Cocos Island.

Item 8 replaces section 10 of the Cocos Islands Proclamation with a new section 10 which provides that the port of Cocos Island and Cocos (Keeling) Islands Airport are first ports of entry for all overseas vessels other than aircraft where imported animals, plants or other goods may be unloaded.

The effect of the amendment is to consolidate all of the ports previously listed in section 10 of the Cocos Islands Proclamation (Cocos (Keeling) Islands Airport, Blue Holes, Port Refuge, Home Island and West Island) into one first port of entry, Cocos Island. The amendment retains Cocos (Keeling) Islands Airport as a port where imported animals, plants or other goods may be unloaded.

Quarantine Proclamation 1998

Item 9 repeals the Readers guide in the Quarantine Proclamation.

This amendment aligns the Quarantine Proclamation with current legislation drafting practice which is for Readers guides to be provided outside the legislation itself.

Item 10 repeals section 7 of the Quarantine Proclamation.

The purpose of the amendment is to serve as a consequential amendment to the repeal of the Readers guide to the Quarantine Proclamation (see item 9) and remove provisions that duplicate section 13 of the *Acts Interpretation Act 1901*.

Items 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28 and 29 amend items in table 1 of section 8 of the Quarantine Proclamation which sets out first ports of entry for overseas vessels other than aircraft (e.g., ships).

The purpose of the amendments is to align the names of first ports of entry for overseas vessels (other than aircraft) with the names appointed under subsection 15(1) of the Customs Act as indicated in the below table:

Name of port prior to alignment	Name of port following alignment
Botany Bay, Sydney	Port of Botany Bay
Port Jackson, Sydney	Sydney
Twofold Bay	Eden
Cape Thevenard	Thevenard
Port Stanvac	Port Adelaide
Abbot Point	Bowen
Hay Point (including Dalrymple Bay)	Hay Point
Mourilyan Harbour	Mourilyan
Thursday Island	Port Kennedy
Gove (Nhulunbuy)	Melville Bay
Groote Eylandt	Milner Bay
Hobart, including Risdon and Selfs Point	Hobart
Launceston, including Beauty Point, Bell Bay and Long Reach	Launceston

Items 30, 31, 32, 33 and 34 amend items in table 3 of section 10 of the Quarantine Proclamation which sets out ports where imported animals generally may be landed.

The purpose of the amendments is to align the names of ports where imported animals generally may be landed with the names appointed under subsection 15(1) of the Customs Act as indicated in the below table:

Name of port prior to alignment	Name of port following alignment
Port Botany, Sydney	Port of Botany Bay
Port Jackson, Sydney	Sydney
Hobart, including Risdon and Selfs Point	Hobart
Gove (Nhulunbuy)	Melville Bay

Items 35 and 36 amend items in table 4 of section 11 of the Quarantine Proclamation which sets out ports where imported animals of particular kinds, or having particular descriptions, may be landed (e.g. domestic cats and dogs from New Zealand).

The purpose of the amendments is to align the names of ports where imported animals of particular kinds, or having particular descriptions, may be landed with the names appointed under subsection 15(1) of the Customs Act as indicated in the below table:

Name of port prior to alignment	Name of port following alignment
Thursday Island	Port Kennedy
Launceston, including Beauty Point and Bell Bay	Launceston

Items 37, 38, 39, 40 and 41 amend items in table 5 of section 12 of the Quarantine Proclamation which sets out ports where imported plants generally may be landed.

The purpose of the amendments is to align the names of ports where imported plants generally may be landed with the names appointed under subsection 15(1) of the Customs Act as indicated in the below table:

Name of port prior to alignment	Name of port following alignment
Port Botany, Sydney	Port of Botany Bay
Port Jackson, Sydney	Sydney
Hobart, including Risdon and Selfs Point	Hobart
Launceston, including Beauty Point, Bell Bay and Long Reach	Launceston

Item 42 substitutes a cell at item 3 in table 6 of section 13 of the Quarantine Proclamation (which sets out ports where imported plants of particular kinds, or having particular descriptions, may be landed) with a new cell.

The purpose of the amendment is to align the name of a port where imported plants of particular kinds, or having particular descriptions, may be landed (Thursday Island) with the name appointed under subsection 15(1) of the Customs Act (Port Kennedy).

Items 43, 44, 45, 46, 47, 48 amend items in table 6A of subsection 13A(1) of the Quarantine Proclamation which sets out ports where imported goods (other than animals or plants) generally may be landed.

The purpose of the amendments is to align the names of ports where imported goods (other than animals or plants) generally may be landed with the names appointed under subsection 15(1) of the Customs Act as indicated in the below table:

Name of port prior to alignment	Name of port following alignment
Port Botany, Sydney	Port of Botany Bay
Port Jackson, Sydney	Sydney
Groote Eylandt	Milner Bay
Hobart, including Risdon and Selfs Point	Hobart
Launceston, including Beauty Point and Bell Bay	Launceston

Item 49 substitutes the reference to ‘Gove (Nhulunbuy)’ under the heading of ‘Northern Territory’ in table 6B of subsection 13A(2) of the Quarantine Proclamation (which sets out names of ports where imported goods other than waste may be landed) with ‘Melville Bay’.

The purpose of the amendments is to align the name of a port where imported goods other than waste may be landed (Gove (Nhulunbuy)) with the name appointed under subsection 15(1) of the Customs Act (Melville Bay).

Items 50 and 51 amend items 2 and 5 of table 6C of subsection 13B(1) of the Quarantine Proclamation which sets out ports where particular kinds of imported goods, or goods having particular uses, may be landed (e.g. fertiliser).

The purpose of the amendments is to align the names of ports where particular kinds of imported goods, or goods having particular uses, may be landed with the names appointed under subsection 15(1) of the Customs Act as indicated in the below table:

Name of port prior to alignment	Name of port following alignment
Cape Thevenard	Thevenard
Port Stanvac	Port Adelaide

Both ports retain the particular kinds of imported goods, or goods having particular uses, that may be landed, being ‘fertiliser and waste only’ for Thevenard and ‘bulk oil products and waste only’ for Port Adelaide.

Items 52, 53 and 54 amend items headed ‘Queensland’ in table 6D of subsection 13B(2) of the Quarantine Proclamation which sets out ports where personal effects that are accompanied passenger baggage may be landed.

The purpose of the amendments is to align the names of ports where personal effects that are accompanied passenger baggage may be landed with the names appointed under subsection 15(1) of the Customs Act as indicated in the below table:

Name of port prior to alignment	Name of port following alignment
Hay Point (including Dalrymple Bay)	Hay Point
Mourilyan Harbour	Mourilyan
Thursday Island	Port Kennedy

Item 55 replaces subsections 37(2) and 37(3) of the Quarantine Proclamation with new subsections 37(2) and 37(3) which allow live domestic cats and dogs to be imported from New Zealand, provided certain criteria are met. These criteria are:

- that the cat or dog must be accompanied by a health certificate, signed by an official veterinarian, in a form approved by the Director of Quarantine

- the certificate is signed not more than five days before the day on which the cat or dog is exported from New Zealand
- the certificate, or a copy of the certificate, is produced to an officer when the vessel on which the cat or dog is imported arrives at its first port of entry in Australia.

The purpose of this amendment would be to give effect to a new import policy for the importation of dogs and cats into Australia from New Zealand.

Items 56, 58, 60, 62, 64 and 67 insert 142 seed species into the ‘permitted seeds’ list in Schedule 5 to the Quarantine Proclamation.

The purpose of the amendment is to remove the requirement for importers to obtain an import permit for these seed species as they have been assessed by the Department of Agriculture (Department) as posing a level of risk that does not exceed Australia’s Appropriate Level of Protection (ALOP) in regards to their potential to introduce pests or diseases in Australia.

The effect of the amendment is that these seed species will be able to be imported into Australia without an import permit which will reduce the administrative, regulatory or cost burdens that may be associated with obtaining import permits.

Items 57, 59, 61, 63, 65 and 66 omit six seed species from Schedule 5 to the Quarantine Proclamation.

The purpose of the amendment is to remove one seed species which is incorrectly spelt (*Aechmea aquadocensis*) and remove five seed species assessed by the Department as posing a level of risk that does not achieve Australia’s ALOP. The seed species being removed are *Cardaria deaba*, *Chloris dubia*, *Chrysanthemum haradjanii*, *Cycas falcata* and *Cycas pranburiensis*.

The effect of removal of these seed species will be to prohibit importation of these 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 the Director of Quarantine to manage the risk associated with their import.

Statement of Compatibility with Human Rights

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

Quarantine Legislation Amendment (2014 Measures No. 1) Proclamation 2014

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 aligns the names of ports listed in the *Quarantine Proclamation 1998*, the *Quarantine (Christmas Island) Proclamation 2004* and the *Quarantine (Cocos Islands) Proclamation 2004* with the names of ports appointed by the Chief Executive Officer of the Australian Customs and Border Protection Service under subsection 15(1) of the *Customs Act 1901*.

The Legislative Instrument amends the *Quarantine Proclamation 1998* to allow live domestic cats and dogs to be imported into Australia from New Zealand without a permit. This will give effect to a new policy which simplifies the import of live domestic cats and dogs into Australia from New Zealand.

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 the seed species which may be imported into Australia without an import permit. The Legislative Instrument amends Schedule 5 by inserting 142 seed species and omitting 6 seed species. The purpose of the legislative instrument is to update the list of permitted seeds in Schedule 5.

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. Barnaby Joyce MP
Minister for Agriculture**