



Biosecurity (Suspended Goods – Uncooked Prawns) Determination 2017

made under subsection 182(1) of the

Biosecurity Act 2015

Compilation No. 4

Compilation date: 4 April 2017

Includes amendments up to: F2017L00381

Prepared by AGS, Canberra

About this compilation

This compilation

This is a compilation of the *Biosecurity (Suspended Goods – Uncooked Prawns) Determination 2017* that shows the text of the law as amended and in force on 4 April 2017 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

Part 1—Preliminary	1
1 Name	1
3 Authority.....	1
4 Purpose of this instrument	1
5 Reasons for making this determination	1
6 Definitions	3
Part 2—Suspended goods	4
7 Class of goods to which this Part applies.....	4
8 Suspension of goods to which this Part applies	5
Endnotes	6
Endnote 1—About the endnotes	6
Endnote 2—Abbreviation key	7
Endnote 3—Legislation history	8
Endnote 4—Amendment history	9

Part 1—Preliminary

1 Name

This is the *Biosecurity (Suspended Goods – Uncooked Prawns) Determination 2017*.

3 Authority

This instrument is made under subsection 182(1) of the *Biosecurity Act 2015*.

4 Purpose of this instrument

For subsection 182(1) of the Act, this instrument provides that specified goods, or a specified class of goods, must not be brought or imported into Australian territory for a specified period.

Note: Goods included in a class of goods specified in Part 2 are *suspended goods* for the purposes of the Act.

5 Reasons for making this determination

Note: This section sets out the reasons for making this determination in its original form. This determination has been amended by:

- the *Biosecurity (Suspended Goods—Uncooked Prawns) Amendment (Exceptions) Determination 2017*; and
- the *Biosecurity (Suspended Goods—Uncooked Prawns) Amendment (Exceptions) Determination (No. 2) 2017*; and
- the *Biosecurity (Suspended Goods—Uncooked Prawns) Amendment (Exceptions) Determination (No. 3) 2017*.

The reasons for making these amendments are set out in the amending determinations.

For subsection 182(5) of the Act, my reasons for making this determination are as follows:

- (a) I am satisfied that uncooked imported prawns (including prawn meat) represent an unacceptable level of biosecurity risk, applying Australia's ALOP, for the following reasons:
 - (i) Excepting the current outbreak, WSSV is exotic to Australia.
 - (ii) All prawn species imported into Australia are susceptible to infection with WSSV and WSSV is capable of surviving freezing, storage and transport to Australia.
 - (iii) Therefore there is a high likelihood that WSSV could enter Australian territory with imported uncooked prawns.
 - (iv) The use of imported uncooked prawns as bait in recreational fishing carries a likelihood of infecting crustaceans, including farmed prawns, in Australian river systems.
 - (v) Imported prawns are used as bait or berley by fishers.

-
- (vi) This means there is the potential if WSSV enters Australian territory with imported uncooked prawns, that it will become established in Australian territory. This likelihood is moderate for farmed prawns.
 - (vii) Where WSSV becomes established in a location, it is likely to spread by both natural distribution, including carriage of crustaceans by birds, and through commercial distribution.
 - (viii) WSSV has the potential to cause harm to animal health. WSSV has a wide host range and can infect many life stages of crustaceans. Prawns, freshwater crayfish and other crustaceans known to be susceptible to WSSV infection are common in freshwater and marine environments throughout Australia.
 - (ix) The entry, establishment and spread of WSSV has the potential for economic consequences in the form of serious prawn aquaculture losses in the domestic industry. Australian prawn aquaculture has a value of \$86.3 million in 2014-15.
- (b) Further, recent investigations have identified that:
- (i) There is an unacceptable level of WSSV in imported uncooked prawns at the retail level. These uncooked prawns had been inspected, tested and cleared for entry into Australia.
 - (ii) Fishers have been using imported uncooked prawns for human consumption as bait. Observations by the department's compliance officers in Queensland confirm this has occurred recently and that the prawns being used were found to be WSSV positive.
- (c) WSSV could therefore potentially enter, establish itself, and/or spread in Australia through uncooked prawns imported for human consumption and subsequently used as bait.
- (d) An outbreak of WSD of unknown aetiology has occurred in the Logan River in Queensland. The cause of this outbreak is being further investigated.
- (e) On the basis of the above information I am satisfied that existing import conditions are insufficient to provide the high level of sanitary protection needed to reduce the biosecurity risk presented by WSSV on imported uncooked prawns to a very low level, in accordance with the ALOP for Australia. A temporary suspension of the importation of uncooked prawns will allow for a review of risk management conditions and compliance arrangements and for the results of that review to be implemented.
- (f) Therefore I am making this determination to address the unacceptable level of biosecurity risk associated with importing uncooked prawns from countries other than New Caledonia.

Scope of suspension

- (g) WSSV is endemic in countries that are sources of uncooked prawns for import to Australia. There are many countries exporting to Australia. At this time only New Caledonia is recognised by Australia as free of WSSV. Therefore I have decided to suspend the import of uncooked prawns from all countries other than New Caledonia.

-
- (h) Crumbed prawns and prawns incorporated into dumplings, samosas and similar products represent a lower level of biosecurity risk, due to the lower likelihood of their being used as bait. Accordingly I have excluded these goods from the scope of the suspension (see paragraphs 7(3)(b) and (c) of this determination).

Period of suspension

- (i) A suspension for a period of 6 months is necessary to analyse the information arising from inspections and investigations, including of the current WSD outbreak and to enable an effective review of import conditions to manage the biosecurity risk in accordance with Australia's ALOP.

6 Definitions

Note 1: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) ALOP;
- (b) Australian territory;
- (c) goods;
- (d) passenger vessel.

Note 2: The term "exclusive economic zone" is defined in the *Acts Interpretation Act 1901*.

In this instrument:

Act means the *Biosecurity Act 2015*.

secure supply chain means the biosecurity integrity program arrangements with the Thai Department of Fisheries that relate to the processing of prawns harvested in Australia and exported to Thailand for import back to Australia, which were announced by the Department on 27 August 2015.

Note: See the Import Industry Advice Notice "New Conditions for the Import of Raw Frozen Wild caught Australian Prawns from Approved Processing Factories in Thailand", Ref: 69-2015, published by the Department on 27 August 2015. In 2017, the Notice could be accessed from <http://www.agriculture.gov.au>.

shelf-stable: goods are **shelf-stable** if:

- (a) the goods have been commercially manufactured; and
- (b) the goods have been packaged by the manufacturer; and
- (c) the goods are in that package; and
- (d) the package has not been opened or broken; and
- (e) the goods are able to be stored in the package at room or ambient temperature; and
- (f) the goods do not require refrigeration or freezing before the package is opened.

WSD means white spot disease.

WSSV means white spot syndrome virus.

Part 2—Suspended goods

7 Class of goods to which this Part applies

Class of goods to which this Part applies

- (1) This Part applies to the following class of goods – uncooked prawns and uncooked prawn meat.
- (2) For the avoidance of doubt, the class of goods referred to in subsection (1) includes uncooked prawns and uncooked prawn meat that have been marinated for human consumption.

Exceptions

- (3) However, the class of goods referred to in subsection (1) does not include any of the following:
 - (aa) uncooked prawns sourced from the exclusive economic zone, or uncooked prawn meat sourced from such prawns, and brought or imported into Australian territory without first having been brought or imported into any other country;
 - (a) uncooked prawns and uncooked prawn meat sourced from New Caledonia and brought or imported into Australian territory without first having been brought or imported into any other country;
 - (b) uncooked prawns and uncooked prawn meat processed into dumplings, spring rolls, samosas, other dim sum-type products and other similar products;
 - (c) uncooked prawns and uncooked prawn meat which have been coated for human consumption by being breaded, crumbed or battered;
 - (d) uncooked prawns or uncooked prawn meat processed into dried prawns or a prawn-based food product that is shelf-stable;
 - (e) uncooked prawns or uncooked prawn meat processed into bait for aquatic use, pet fish food or aquaculture feed;
 - (f) subject to subsection (4), either:
 - (i) uncooked prawns sourced from Australian territory; or
 - (ii) uncooked prawn meat sourced from such prawns;that are brought or imported into Australian territory without first having been brought or imported into any other country;
 - (g) uncooked prawns and uncooked prawn meat intended for use as laboratory or food samples for analysis;
 - (h) uncooked prawns and uncooked prawn meat intended to be transhipped to a passenger vessel that intends to leave Australian territory from a landing place or port in Australian territory;
 - (i) subject to subsection (4), uncooked prawns and uncooked prawn meat deriving from prawns that, in accordance with the secure supply chain, were:

-
- (i) wild-caught in Australian territory; and
 - (ii) exported to Thailand, either in the form of uncooked prawns or uncooked prawn meat, for processing in Thai Union Group Public Company Limited, 79/233 Moo 7, Sethakit 1 Road, Tambon Tarsai, Amphur Muang, Samutsakorn 74000, Thailand.
- (4) Paragraphs 7(3)(f) and (i) apply only in relation to goods in the class uncooked prawns and uncooked prawn meat that have been moved from the area in which they were caught or harvested in accordance with any applicable requirement under Australian law that relates to biosecurity risk in relation to the movement of goods in that class.

Note: An example of such a law is a Movement Control Order made from time to time under the *Biosecurity Act 2014* (Qld) that restricts the movement of WSSV carriers (namely, decapod crustaceans and polychelate worms) from various areas in Queensland.

8 Suspension of goods to which this Part applies

Goods included in a class of goods to which this Part applies must not be brought or imported into Australian territory for a period of 6 months commencing on the commencement of this instrument.

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	
exp = expires/expired or ceases/ceased to have effect	reloc = relocated
F = Federal Register of Legislation	renum = renumbered
gaz = gazette	rep = repealed
LA = <i>Legislation Act 2003</i>	rs = repealed and substituted
LIA = <i>Legislative Instruments Act 2003</i>	s = section(s)/subsection(s)
(md) = misdescribed amendment can be given effect	Sch = Schedule(s)
(md not incorp) = misdescribed amendment cannot be given effect	Sdiv = Subdivision(s)
mod = modified/modification	SLI = Select Legislative Instrument
No. = Number(s)	SR = Statutory Rules
	Sub-Ch = Sub-Chapter(s)
	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Biosecurity (Suspended Goods – Uncooked Prawns) Determination 2017	6 Jan 2017 (F2017L00034)	7 Jan 2017 (s 2)	—
Biosecurity (Suspended Goods—Uncooked Prawns) Amendment (Exceptions) Determination 2017	3 Feb 2017 (F2017L00094)	4 Feb 2017 (s 2)	—
Biosecurity (Suspended Goods—Uncooked Prawns) Amendment (Exceptions) Determination (No. 2) 2017	27 Feb 2017 (F2017L00168)	Sch 1: 28 Feb 2017 (s 2(1) item 2) Sch 2: 6 Mar 2017 (s 2(1) item 3)	—
Biosecurity (Suspended Goods—Uncooked Prawns) Amendment (Exceptions) Determination (No. 3) 2017	3 April 2017 (F2017L00381)	Sch 1: 4 April 2017 (s 2(1) item 2) Sch 2: <u>1 May 2017</u> (s 2(1) item 3)	—

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s 2	rep LA s 48D
s 5	am F2017L00094, F2017L00168, F2017L00381
s 6	am F2017L00094, F2017L00168, <u>F2017L00381</u>
Part 2	
s 7	am F2017L00094, F2017L00168, <u>F2017L00381</u>