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New Biosecurity Legislation Enacted in Australia

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Report Highlights:

Legislation to strengthen Australia's biosecurity system, simplify and streamline regulation and increase flexibility in how biosecurity risk is managed received royal assent on June 16, 2015 and will commence on June 16, 2016. At that time, the *Biosecurity Act 2015* (the Act) and supporting legislation will replace the *Quarantine Act 1908*.

Summary

Legislation to strengthen Australia's biosecurity system, simplify and streamline regulation and increase flexibility in how biosecurity risk is managed received royal assent on June 16, 2015 and will commence on June 16, 2016. At that time, the [*Biosecurity Act 2015*](#) (the Act) and supporting legislation will replace the *Quarantine Act 1908*.

The Act provides the primary legislative means and a modern regulatory framework for the Australian Government to manage the risk of pests and diseases entering Australian territory and causing harm to animal, plant and human health, the environment and the economy.

The intent of the Act is to manage biosecurity risks—including the risk of listed human diseases—entering Australian territory, or emerging, establishing themselves or spreading in Australian territory or a part of Australian territory. The Act will also enable the management of risks relating to ballast water and sediment and biosecurity emergencies. The Act is designed give effect to Australia's international rights and obligations, including under the World Health Organization International Health Regulations 2005 (International Health Regulations), the World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures 1994 (SPS Agreement) and the Convention on Biological Diversity 1992 (Biodiversity Convention).

The Act contains new powers that allow for the management of a wider range of pests and diseases already present in Australian territory, such as fruit fly and noxious weeds. The Act also extends the coverage of existing powers so that some of the biosecurity risks posed by invasive pests can be more effectively managed. These additional powers are designed to complement current arrangements with states, territories and industry to support the management of pest and disease incursions.

The new Biosecurity Act is intended to allow Australia to manage biosecurity risk more effectively through a stronger, clearer and more flexible legislative framework. It is expected to improve the way the Department of Agriculture assesses and manages risks, including the management of pests and diseases already present in Australia.

The Act provides the Australian government with the powers and tools to manage contemporary biosecurity threats. These powers and tools include:

- A new range of enforcement options, including infringement notices, civil penalties, enforceable undertakings and criminal sanctions.
- Penalties that are designed to match the offence and be balanced, consistent and reflect the level of biosecurity risk posed.
- Mechanisms to clearly identify biosecurity risks offshore, onshore and at the border, and manage these risks using a broad range of Commonwealth powers.
- Modernization of complex regulatory provisions and administrative practices. For example, it is estimated the compliance costs on businesses will be reduced by approximately \$6.9 million per year because of clearer, easier to use legislation and the improved processes it will enable.
- An Approved Arrangement scheme that will replace duplicative quarantine approved premises and compliance agreement provisions in the Quarantine Act.

- A fit and proper person test that will allow the government to use previous conduct to assess whether it is appropriate for a person or business to import goods or be responsible for an Approved Arrangement.
- New powers enabling information gathering to support the biosecurity system.
- Expanded onshore powers for the Commonwealth to cooperatively manage and address pest and disease incursions with state governments and/or the private sector.
- The Biosecurity Act contains a framework to manage the risk associated with ballast water, and prepares Australia for the International Ballast Water Convention to come into force. It creates a single, Australian-wide ballast water and management regime by introducing new ballast water management requirements for international and domestic vessels.

Background

Legislation to strengthen Australia's biosecurity system, simplify and streamline regulation and increase flexibility in how biosecurity risk is managed was introduced into the Australian Parliament on November 27, 2014. The *Biosecurity Bill 2014* and supporting legislation will replace the Quarantine Act 1908.

At that time, Agriculture Minister, Barnaby Joyce, said Australia's world class biosecurity system was still relying on a legislative framework that was designed more than 100 years ago, and it was time to update it to match the changing global environment.

"When the *Quarantine Act 1908* was written people and goods arrived only by sea and biosecurity threats included diseases like the bubonic plague, leprosy, yellow fever and smallpox," Minister Joyce said.

"Agriculture is a key pillar of the Australian economy and must be supported by a strong and robust biosecurity system. Any adverse changes to our world-class biosecurity status would have a direct impact on domestic productivity, farm-gate returns and export opportunities," Minister Joyce said.

A number of significant reviews of the biosecurity system, most recently the 2008 [Review of Australia's Quarantine and Biosecurity \(Beale review\)](#), outlined opportunities to improve the system, including the development of new legislation. *The Biosecurity Act 2015* was developed over many years with significant consultation undertaken with industry, state and territory governments, environment groups, health professionals, the general public and trading partners.

The Act and supporting legislation has been designed to support the biosecurity system in any age, regardless of advances in transport and technology or future challenges. As with the *Quarantine Act 1908*, the biosecurity legislation will be co-administered by the Ministers responsible for Agriculture and Health.

The Act is broadly broken up into three categories:

- Operational chapters that support daily biosecurity business – such as assessing and managing biosecurity risk in relation to goods, transport and technologies.
- Stand-alone chapters that support specialized biosecurity situations – such as the management of human health and ballast water, emergency responses and partnerships with business.
- Administrative chapters that apply across the entire Bill that are designed to provide a framework for the smooth administration of the biosecurity system – such as compliance and enforcement.

Additional Information

The Act is supported by four other pieces of legislation that are designed to manage the transitional process from the *Quarantine Act 1908* to the *Biosecurity Act 2015* including extended transitional arrangements to manage biosecurity risk and amendments to other Commonwealth legislation. The following pages include the text of each piece of legislation, explanatory memoranda for each, and, second reading speeches.

- [The Biosecurity Act 2015](#)

Supporting Acts manage the transitional process from the Quarantine Act to the Biosecurity Act including extended transitional arrangements to manage biosecurity risk and amendments to other Commonwealth legislation. The supporting Acts are listed below. Explanatory memorandums for each are also available through these links.

- [Biosecurity \(Consequential Amendments and Transitional Provisions\) Act 2015.](#)
- [Quarantine Charges \(Imposition-General\) Amendment Act 2014](#)
- [Quarantine Charges \(Imposition-Customs\) Amendment Act 2014](#)
- [Quarantine Charges \(Imposition-Excise\) Amendment Act 2014](#)

Further information, including FAQs, can also be found on the Australian Department of Agriculture website at: www.agriculture.gov.au/biosecuritylegislation.

Effect on U.S. Exporters

The Biosecurity Act 2015 comes into effect on June 16, 2016. Importer groups have indicated to Post that U.S. exporters will probably not notice much difference from current practices. We are advised that when the Act is implemented there will be little change to practical, day-to-day matters – the import inspectors will be relying on powers under the new Biosecurity Act rather than the current Act (Quarantine Act).

On the other hand, some stakeholders are concerned that the new regulations may create additional administrative difficulties and higher fees for importers. Others indicate that the Act does not go far enough, and that additional protections are needed.

Post will continue to monitor the new Act and report any adverse impacts on U.S. exporters.