

Plant Protection Amendment Bill 2007

Explanatory Notes

General Outline

Short Title

The Short title of this Bill is the *Plant Protection Amendment Bill 2007* (“the Bill”).

Policy Objectives of the Legislation

The policy objectives of this Bill are to implement the changes suggested in an independent report in relation to sugarcane smut and economic recovery for the Bundaberg sugarcane producing region and to reduce legal risk by allowing the chief executive to make decisions that potentially could spread a plant pest. This objective will be achieved by amending section 11A of the *Plant Protection Act 1989* (“the Act”) to allow the chief executive to make, amend or repeal approved plant declarations, made under that section, in situations where restrictions on varieties are no longer justifiable, for reasons relating to the inability to control the spread of pests in Queensland.

Reasons for the Bill

The Bill is being progressed with urgency in relation to the 2006 outbreak of sugarcane smut in Queensland. Currently under the *Plant Protection (Approved Sugarcane Varieties) Declaration 2003* (“the Declaration”) sugarcane smut susceptible varieties cannot be planted in the Bundaberg region, which is infested with the pest. The Department of Primary Industries and Fisheries (DPI&F) has been advised that there are insufficient supplies of sugarcane smut resistant varieties for replanting, which begins in autumn 2007. An independent report commissioned by DPI&F encourages the planting of susceptible varieties in the absence of stock of resistant varieties, to ensure that the sugarcane producing areas around Bundaberg can recover economically from the effects of sugarcane smut. However, allowing sugarcane smut susceptible varieties to be

planted in Queensland could also leave the Queensland Government at risk of legal liability for spreading the pest in the state.

Crown Law advised DPI&F that an amendment to the Act is necessary to enable the chief executive of DPI&F to add sugarcane smut susceptible varieties to the Declaration to enable replanting to occur. In the process of investigating the legislative options to enable Bundaberg planting to take place in autumn 2007, Crown Law advised that the Act as it stands exposes the Queensland Government to legal risk due to inconsistency between different areas of the State in that only the Bundaberg/Childers growers are not permitted to plant susceptible varieties. The Department considers that this risk is significant. The proposed urgent amendment would remove the inconsistency between areas. Crown Law advised that subordinate legislation amendments alone will not be sufficient to achieve the purposes of the Bill.

Achieving the Objectives

These amendments allow the chief executive to vary the Declaration to allow for smut susceptible varieties to be planted in the Bundaberg region to ensure economic recovery for the region and to reduce legal liability for the Queensland Government in relation to that decision.

Administrative Costs

There will be no appreciable administrative costs in relation to the Bill.

Fundamental Legislative Principles

The Office of the Queensland Parliamentary Counsel has identified no breaches of fundamental legislative principles in the drafting of this Bill.

Consultation

Consultation has been made with industry groups Australian Sugar Milling Council (ASMC), CANEGROWERS, BSES Ltd. and the Sugar Research Development Council in relation to the independent report that led to the development of the Bill.

Queensland Treasury, the Department of the Premier and Cabinet and the Department of State Development have been consulted through their involvement in both the Sugarcane Smut Steering Committee and on the Scientific and Economics Working Group.

Crown Law and the Departments of the Premier and Cabinet and State Development have been consulted on the regulatory issues associated with the planting of susceptible varieties in Bundaberg.

Notes on Provisions

Short Title

Clause 1 states that the short title of this Act is the *Plant Protection Amendment Act 2007*.

Act Amended

Clause 2 provides that *Plant Protection Amendment Act 2007* amends the *Plant Protection Act 1989*.

Amendment of s11A (Approved plant variety)

Section 11A of the Act creates a regime where the chief executive can make declarations that relate to specific plant varieties, in relation to pest quarantine areas made under section 11. These declarations relate to restricting what plant varieties can be planted to control the spread of pests in Queensland. Pest quarantine areas can be declared for any plant pest, and can overlap. This means that one geographical area can be a part of many pest quarantine areas and can be infested with any pest.

Sugarcane smut is declared as a pest for the entire State of Queensland by section 107 of the *Plant Protection Regulation 2002* (“the Regulation”). Other pests of sugarcane, which relate to the Declaration, have different pest quarantine areas, as defined by Section 114 of the Regulation.

Clauses 3(1), (2), (3), (4) and (5) are drafting amendments with clarifications for the proposed new Sections 11A(4A) and (4B) being inserted into the Act.

Clause 3(6) inserts Sections 11A(4A) and (4B) into the Act.

Section 11A(4A) allows the chief executive to make, amend or revoke approved plant declarations when he or she is satisfied that it is no longer possible to control the spread of the pest for which the declaration was made.

Section 11A(4B) allows the chief executive to make, amend or revoke approved plant declarations in relation to one particular pest and to list approved varieties for planting in relation to that pest, even if it may spread another unrelated pest. This will only apply if the unrelated pest is the subject of a pest quarantine area that is the entire State of Queensland.

These amendments allow the chief executive to vary the Declaration to allow for smut susceptible varieties to be planted in the Bundaberg region.