

Plant Protection Amendment Regulation (No. 6) 2013

Explanatory Notes for SL 2013 No. 193

made under the

Plant Protection Act 1989

General Outline

Short title

Plant Protection Amendment Regulation (No. 6) 2013

Authorising law

Sections 2, 8, 11 and 35 of the *Plant Protection Act 1989* (the Act).

Policy objectives and the reasons for them

Banana freckle is a disease of banana leaves and fruit which is spread by the movement of fungal spores on wet leaves and the movement of contaminated fruit. Banana fruit that has been affected by the disease, whilst safe for human consumption, is in most cases unsaleable, due to the blemishes that appear on the fruit's exterior.

Banana freckle poses a significant threat to the Queensland banana industry because it causes damage to all commercial banana varieties, in particular the Cavendish variety, which dominates Queensland production. The Queensland banana industry has an estimated value of at least \$400 million and accounts for more than 90 percent of banana production in Australia.

The *Plant Protection Regulation 2002* (the Regulation) currently prescribes the collective name *Guignardia musae* Racib for the group of fungal pathogens which cause banana freckle disease. The pest is prescribed in Schedules 1 and 2 of the Regulation as both a prescribed pest and a notifiable pest. The prescription of this collective group of fungal pathogens as a notifiable pest means there is an existing obligation on persons to report the presence of the pest on their land or their vehicle within 24 hours of becoming aware of it.

However, not all species within *Guignardia musae* Racib present the same degree of risk of introducing banana freckle into Queensland.

The fungal pathogen, *Phyllosticta cavendishii* (within *Guignardia musae* Racib), has recently been detected in the Northern Territory. *Phyllosticta musarum* has to date not been detected in Australia, however it could, if introduced, have similarly devastating impacts to *Phyllosticta cavendishii* on Queensland's banana industry. *Phyllosticta maculata* is however endemic to and widespread across Queensland.

As research into banana freckle disease continues, more *Phyllosticta* species continue to be discovered. As different fungal pathogens which cause banana freckle pose different degrees of risk to the introduction of the disease into Queensland, it is not appropriate for the Regulation to refer to the disease by its generic scientific name *Guignardia musae* Racib. It is more appropriate for the Regulation to refer to the fungal pathogens which are not endemic to Queensland and which present the greatest risk of introducing the disease into this State. It is these species of the fungal pathogen to which movement restrictions of the carriers should apply.

Consequently, the primary objective of the amendment regulation is to implement restrictions on the movement of plants, fruit, soil and appliances into Queensland from jurisdictions in which banana freckle has been found, to avoid the disease being introduced into Queensland.

The second objective of the amendment regulation is to clarify the scope of the fungal pathogens which are to be prescribed and notifiable pests under the Regulation.

Achievement of policy objectives

The amendment regulation achieves its objectives as it establishes the whole of Queensland as a pest quarantine area for banana freckle. It further prohibits, without an inspector's approval, the movement into Queensland of the carriers for transmission of the fungal pathogen namely, soil, appliances and other things including banana fruit. An inspector's approval will be required prior to the movement of these items into Queensland from a jurisdiction in which banana freckle has been detected.

The amendment regulation further restricts the movement of banana plants into Queensland by requiring that plantlets must be certified by an inspector to be free from banana freckle prior to being introduced, transported in a sealed, pest-proof container and in a way that prevents infestation by a plant pest.

The amendment regulation achieves its objective of clarifying the species of fungal pathogen, through the omission of the entry for the collective name for the species (*Guignardia musae* Racib) as a prescribed pest and a notifiable pest in Schedules 1 and 2 of the Regulation. The amendment regulation replaces this pest with an entry encompassing all *Phyllosticta* species with the exception of the endemic species, *Phyllosticta maculata*.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the objectives of the Act to prevent, control or remove pest infestation of plants in Queensland.

Inconsistency with policy objectives of other legislation

The amendment regulation is consistent with the policy objectives of other legislation which provide for the management and control of plant pests and diseases.

Benefits and costs of implementation

Clarifying the species of fungal pathogen to which notification obligations apply will not create any greater imposition upon government or the community over and above what currently exists.

Biosecurity Queensland inspectors will continue to be required to confirm the existence of the pest and the accuracy of the information provided when notifications are made. If no notifications of the pest's existence are made, then the introduction of this amendment regulation will not impose any additional cost upon Government. As all *Phyllosticta* species with the exception of *Phyllosticta maculata* (an endemic species), will be required to be notified, the amendment regulation does not impose any additional burden upon the community and if anything represents a slight reduction.

Quarantine awareness measures will be implemented at the Queensland-Northern Territory border, where there are only four main vehicle crossing points. This is likely to be more productive and cost-effective than efforts to promote awareness of movement restrictions at multiple entry points into the six current banana pest quarantine areas within Queensland.

The movement restrictions imposed by the amendment regulation may impose some cost on persons wishing to move plantlets into Queensland in that they will be required to obtain an inspector's approval prior to movement. However, any potential impost on particular individuals in the community is justified when balanced against the benefits of preventing the introduction of the pest into Queensland.

Consistency with fundamental legislative principles

The amendment regulation is consistent with fundamental legislative principles.

Consultation

Consultation was undertaken with the Australian Banana Growers Council Incorporated and Nursery and Garden Industry Australia with both supportive of the amendment regulation.

The Office of Best Practice Regulation (OBPR) within the Queensland Competition Authority was consulted with regard to Regulatory Impact Statement (RIS) requirements. The OBPR confirmed that the amendment regulation is excluded from the RIS system in that it is for a matter that requires an immediate legislative response to prevent damage to property or injury to persons, and to which the additional time required by the preparation of a RIS would represent an unacceptable increase in the risk of damage or injury.