

Biosecurity and Other Legislation Amendment Regulation 2018

Explanatory Notes for SL 2018 No. 77

made under the

Biosecurity Act 2014
Veterinary Surgeons Act 1936

General Outline

Short title

Biosecurity and Other Legislation Amendment Regulation 2018

Authorising law

Sections 128, 129, 212 and 503 of the *Biosecurity Act 2014*.
Sections 18B and 37 of the *Veterinary Surgeons Act 1936*.

Policy objectives and the reasons for them

Biosecurity Zones

Under Chapter 5 of the *Biosecurity Regulation 2016*, a number of biosecurity zones are established by areas outlined on a map. The maps are published on the Department of Agriculture and Fisheries' website. Certain restrictions apply to these zones as specified in the biosecurity zone regulatory provisions.

In order to limit the spread of particular ant species, biosecurity zone regulatory provisions apply to areas where they have been identified. As eradication activities are completed in particular areas or ants are found in new areas, these biosecurity zones described by maps require updating.

Currently there are 37 biosecurity zone maps which have movement controls to address the spread of electric ants within Queensland. As a consequence of eradication activities and new detections over time, the biosecurity zone maps are to be repealed and replaced with one significantly larger and contiguous electric ant biosecurity zone map. It is proposed to provide some flexibility to minimise the movement controls in the biosecurity zone by providing, under section 129(1)(c) of the *Biosecurity Act 2014*, that the chief executive is authorised to establish areas within the biosecurity zone that will have lesser restrictions than those imposed for the whole biosecurity zone. For example, once eradication activities have been completed in an area within the biosecurity zone, the chief executive may establish an area from which an electric ant carrier may be moved out of into another area within the biosecurity zone. These areas will become known as a 'lesser restrictions area'. This approach will reduce regulatory burden in those areas no longer infested with electric ant.

The changes in relation to the biosecurity zone maps for ants have identified to the Department that the current provisions of Chapter 5 do not refer to a particular version of the relevant maps. This has caused confusion about the process for amending the maps and ensuring this is subject to appropriate oversight. Consideration is being given to Act amendments that might provide for an alternative process for amendment of the maps. In the meantime, it is intended to clearly identify the version of all maps in regulation to reflect that any changes to the maps require an amendment of the relevant regulatory provision. The proposed electric ant biosecurity zone map will be clearly identifiable by name and date of publication. The references to the biosecurity zone maps for banana pest, cattle tick, grape phylloxera, papaya ringspot and sugar cane will also be amended to identify the current biosecurity zone maps by name and the date of publication.

Restricted Matter Permits

When Queensland's biosecurity legislation was reformed with the *Biosecurity Act 2014*, a number of specific permits, registers and licenses issued under the repealed legislation were continued for a transition period. Relevantly, there are four General Fisheries Permits (GFPs) issued under the *Fisheries Act 1994* which are continued under Chapter 19, Part 2, Division 1, Subdivision 2, section 508 (Things continued in force under repealed Act or amended Act) of the *Biosecurity Act 2014*. These permits provide for the possession, until 1 August 2018, of particular noxious fish which are restricted matter under the *Biosecurity Act 2014*.

The species concerned are Alligator gar (*Atractosteus spatula*) and spotted gar (*Lepisosteus oculatus*). A GFP was given in four specific cases to allow the continued recreational use of particular specimens of these long-lived fish by persons who already possessed them in Queensland and declared them during an amnesty period when the species were first declared noxious fish. Expiry of the GFPs will necessitate euthanising the fish unless an alternative authorisation for the keeping of these fish is found.

Amendments to the legislation will provide for a type of a permit, in the *Biosecurity Regulation 2016*, to allow these to continue for the life of the fish in question. No further permits for other fish would be issued unless a similar situation arose in future where some specimens of a species were already held for recreational use in Queensland before the species was listed as restricted matter.

White Spot Fishing Restrictions

Restrictions to prevent the spread of the White Spot disease were implemented under the *Biosecurity Regulation 2016* at a relatively early phase of the response to its discovery in prawn farms located in the relevant biosecurity zone. The restrictions were created to reduce the risk of disease spread by prohibiting any form of fishing within 100m of a drainage or intake channel used by a prawn facility.

Many local fishermen have since raised concerns that their livelihoods are being negatively impacted by the restrictions on fishing in the areas. When the restrictions were first implemented, it was necessary to enforce strict rules on fishing near the inlets and outlets in order to prevent the spread of the disease. Since then, the disease has been controlled in the areas, and the level of restrictions can be reduced to reflect the current risk.

It remains good biosecurity practice not to fish near the outlet of any prawn farm anywhere in the State in case the virus is present in the farm, though not yet detected, and is amplified in the farm and then spread via the taking of carriers near the outlet. However, as the disease has been effectively controlled in these particular farms, enforcing restrictions which are impacting the livelihoods of fishers is no longer justified. Deleting any mention of 'drainage' or 'outlet' from the legislation so that the restrictions only applied to intake channels was considered, but it was decided that the general public would find it too hard to distinguish

between inlet and outlet drains. Therefore, such an amendment would be practically unsuitable.

The predominant risk of reinfection of the farms is from imported prawns that may be used as bait by line fishermen. A prohibition on line fishing near intake channels to reduce this risk remains justified, but restrictions on other forms of fishing are not. Now that control of the white spot disease in the areas is confirmed, other fishing types which involve removing fish and other organisms from the waterway no longer pose a substantial risk of spreading white spot.

The legislation currently allows for people to fish in a drainage or intake channel if they have the consent of the owner of the facility under section 94D(2)(a). The exception creates a risk, as an owner may have no idea of the disease status of bait used for fishing, and the location of the restrictions may not always be on or over land owned by the farmer.

The proposed amendments relax the restrictions on fishing in the areas surrounding prawn farms in order to allow what are now, low risk fishing practices. Prohibitions on line fishing will continue due to the continuing risk of reinfection from imported prawns used as bait.

Veterinary Surgeons Registration

Secondary registration

NSW, the Northern Territory, Western Australia, Victoria, South Australia, Tasmania and the Australian Capital Territory along with Queensland now recognise the registration of veterinarians in any other State or Territory of Australia. Given that Queensland now recognises the registration of veterinarians in other jurisdictions under the *Veterinary Surgeons Act 1936*, there is no longer a need to maintain regulatory provisions for 'secondary registration' of interstate practitioners under the *Veterinary Surgeons Regulation 2016*.

Updating accreditation body

In 1999 following an agreement between State and Territory Veterinary Boards of Australia and the Veterinary Council of New Zealand, the Australasian Veterinary Boards Council (AVBC) was incorporated in Victoria. In May 2008, the AVBC Inc. adopted a new constitution with new by-laws and committee structure. The four standing committees became Standards Committees under the 2008 by-laws. They are the Veterinary Schools Accreditation Advisory Committee (VSAAC), the Advisory Committee on the Registration of Veterinary Specialists (ACRVS) and two standing committees which oversee the National Veterinary Examination (NVE): NVE Panel in Veterinary Science and NVE Board of Examiners. The VSAAC undertakes the assessment on behalf of AVBC Inc., but the accrediting body is the AVBC Inc.

Achievement of policy objectives

The policy objectives are achieved by:

1. repealing the electric ant biosecurity zones and establishing a new biosecurity zone which enables restrictions to be changed more quickly when the ant is found in new locations or eradicated from certain locations within the zone
2. creating a new 'noxious fish recreational use permit' under section 212(d) of the *Biosecurity Act 2014* to allow for the possession of certain fish that are classified as restricted matter under the *Biosecurity Act 2014* and were previously permitted under the repealed legislation
3. updating white-spot restrictions to allow certain fishing within previously restricted zones as it is now more proportionate to the current risk
4. amending the *Veterinary Surgeons Regulation 2016* to:
 - a. omit reference to registration classes which are no longer relevant

- b. update the name of the accrediting body from the Veterinary Schools Accreditation Advisory Committee to the Australasian Veterinary Boards Council Incorporated.

Consistency with policy objectives of authorising law

The subordinate legislation is consistent with the main policy objectives of the *Biosecurity Act 2014*, which is to provide an effective biosecurity system for Queensland and manage biosecurity risks, and the *Veterinary Surgeons Act 1936*, which is to provide for the qualification and registration of veterinary surgeons.

Inconsistency with policy objectives of other legislation

The subordinate legislation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

The Queensland Government will not incur any additional costs in the implementation of this subordinate legislation.

Consistency with fundamental legislative principles

The subordinate legislation is consistent with fundamental legislative principles.

Consultation

The Department of Agriculture and Fisheries has maintained correspondence with the prawn farms affected by the amendments to white spot fishing restrictions. The program has also received some input from commercial fishermen who work on the Logan River in the affected area. The proposed amendments to relax the fishing restrictions are supported.

The Office of Best Practice Regulation (OBPR) was consulted on the proposed amendments to white spot fishing restrictions. OBPR advised that the proposed amendments were excluded from further analysis under the *Queensland Government Guide to Better Regulation* (the Guide). The exclusion was made on the basis that the proposed amendments appear to reduce the burden of regulation, with no apparent significant adverse impacts.

In accordance with the Guide, the Department has assessed the proposed amendments in relation to creating a new 'Noxious Fish Recreational Use Legacy' restricted matter permit type and has determined that the proposal is excluded from further regulatory impact analysis on the basis that the proposal is of a savings nature. The Department has also applied a self-assessable exclusion for the proposed changes to biosecurity zones from further regulatory impact analysis on the basis that it is machinery in nature.

The Australian Veterinary Association supports the proposed amendments to the *Veterinary Surgeons Regulation 2016*.

The Department has also assessed the amendments to the *Veterinary Surgeons Regulation 2016* under the Guide and determined that the proposed amendments are excluded from further analysis on the basis that the amendments correct technical errors and are machinery in nature.