



# **Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 1) 2000**

**No. 121, 2000**



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**An Act to amend legislation relating to agriculture,  
fisheries and forestry, and for related purposes**

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# **An Act to amend legislation relating to agriculture, fisheries and forestry, and for related purposes**

[Assented to 5 October 2000]

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 1) 2000*.

## **2 Commencement**

- (1) Subject to this section, this Act commences on a day or days to be fixed by Proclamation.
- (2) If a provision of this Act (other than item 8 of Schedule 2) does not commence under subsection (1) within the period of 6 months beginning on the day on which this Act receives the Royal Assent, the provision commences on the first day after the end of that period.
- (3) Item 8 of Schedule 2 is taken to have commenced on the day on which the *Public Employment (Consequential and Transitional) Amendment Act 1999* received the Royal Assent.

## **3 Schedule(s)**

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **4 Application provision—approval of places for treating goods**

The amendments made by items 7 and 8 of Schedule 1 apply to applications for approvals made after the commencement of this section.

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## **5 Application provision—detaining goods**

The amendment made by item 11 of Schedule 1 applies to goods ordered into quarantine after the commencement of this section.

## **6 Saving and validation of appointments**

- (1) The amendments made by items 2 and 3 of Schedule 1 do not affect the validity of an appointment made under section 9AA of the *Quarantine Act 1908* before the commencement of this section.
- (2) An appointment of a person as a quarantine officer (animals) and a quarantine officer (plants) purporting to have been made under section 9AA of the *Quarantine Act 1908* before the commencement of this section is taken to have been validly made.

## **7 Validation of agreements**

An agreement purporting to have been entered into under section 66B of the *Quarantine Act 1908* before the commencement of this section in respect of vessels is taken to have been validly entered into.

## Schedule 1—Quarantine

### *Quarantine Act 1908*

#### **1 Section 6C**

After “this Act”, insert “, the regulations or a Proclamation under this Act”.

#### **2 Subsection 9AA(3)**

Repeal the subsection, substitute:

- (3) The Director of Animal and Plant Quarantine may, by writing, appoint a person to be either or both of the following:
- (a) a quarantine officer (animals);
  - (b) a quarantine officer (plants).

#### **3 Subsection 9AA(4)**

Repeal the subsection, substitute:

- (4) A person appointed under subsection (3) must be appointed to a division or divisions of animal quarantine, plant quarantine or both, as the case may be, specified in the instrument of appointment.

#### **4 Subsection 14A(1)**

Omit “or the regulations”, substitute “, the regulations or a Proclamation under this Act”.

#### **5 After paragraph 18(2)(b)**

Insert:

- (ba) all quarantinable pests and quarantinable diseases;

#### **6 After subsection 35(1)**

Insert:

- (1AAA) A quarantine officer may, by order in writing, order into quarantine any goods that, in his or her opinion, are or are likely to be quarantinable pests or quarantinable diseases.

#### **7 Subparagraph 46A(3)(a)(iii)**

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Repeal the subparagraph, substitute:

- (iii) an offence against any other law of the Commonwealth prescribed for the purposes of this section; or
- (iv) an offence against any law of a State or a Territory prescribed for the purposes of this section; and

Note: The heading to section 46A is altered by omitting “**ordered into**” and substituting “**subject to**”.

### **8 Subparagraph 46A(4)(f)(iii)**

Repeal the subparagraph, substitute:

- (iii) an offence against any other law of the Commonwealth prescribed for the purposes of this section; or
- (iv) an offence against any law of a State or a Territory prescribed for the purposes of this section; and

### **9 Subparagraph 46A(9)(f)(iii)**

Repeal the subparagraph, substitute:

- (iii) an offence against any other law of the Commonwealth prescribed for the purposes of this section; or
- (iv) an offence against any law of a State or a Territory prescribed for the purposes of this section; or

### **10 At the end of section 46A**

Add:

*Definition*

(14) In this section:

**goods** has the meaning given by subsection 5(1), and includes a vessel.

*Interpretation*

(15) Subsection (14) does not affect the meaning of **goods** in any other provision of this Act.

### **11 Paragraph 48(1)(a)**

Repeal the paragraph, substitute:

- (a) are to be detained:

- (i) on board the vessel or installation, or at the premises, where they are located at the time the direction is given; and
- (ii) in such manner, and for such period, as a quarantine officer determines; or

## 12 Subsection 48AB(3)

Repeal the subsection, substitute:

### *Treatment of vehicle*

- (3) If a vehicle has been exposed to an animal at a time when the animal was subject to quarantine, a quarantine officer may direct:
  - (a) the owner of the vehicle; or
  - (b) the person in control of the vehicle;to treat the vehicle in a manner stated in the direction.

Note: For the circumstances in which a vehicle is taken to have been exposed to an animal, see section 5B.

## 13 Before subsection 48AB(4)

Insert:

- (3A) If a vehicle has been exposed to a quarantinable pest or a quarantinable disease, a quarantine officer may direct:
  - (a) the owner of the vehicle; or
  - (b) the person in control of the vehicle;to treat the vehicle in a manner stated in the direction.

## 14 After subsection 48AB(4)

Insert:

- (4A) If any premises (other than a vehicle) have been exposed to a quarantinable pest or a quarantinable disease, a quarantine officer may direct:
  - (a) the owner of the premises; or
  - (b) if the owner is not the occupier of the premises—the occupier of the premises;to treat the premises in a manner stated in the direction.

## 15 After Part V

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Insert:

## **Part VA—Automated entry processing and release of imported goods**

### **56 Automated entry processing and release of imported goods**

#### *Electronic notice*

- (1) An electronic notice under this section may be given to:
  - (a) a person who has imported goods that have not been released from quarantine; or
  - (b) an agent of such a person.
- (2) The notice may do one or more of the following:
  - (a) order the goods into quarantine;
  - (b) release the goods from quarantine;
  - (c) require the person to whom the notice is given (the *recipient*) to cause the goods to be treated in a manner specified in the notice;
  - (d) require the recipient to leave the goods at a place specified in the notice;
  - (e) require the recipient to move the goods to a place specified in the notice;
  - (f) set out the extent (if any) to which the recipient may deal with or interfere with the goods.

However, if the notice orders the goods into quarantine, the notice must also do one or more of the things mentioned in paragraphs (c) to (f).

#### *Director of Animal and Plant Quarantine taken to have given the notice*

- (3) If a notice is given to a person under subsection (1), the Director of Animal and Plant Quarantine is taken to have given the notice.

*Operation of the computer program*

- (4) The Director of Animal and Plant Quarantine must take all reasonable steps to ensure that the computer program concerned does not result in electronic notices ordering goods into quarantine unless there are reasonable grounds to believe there is an unacceptably high level of quarantine risk in respect of the goods.

*Offences*

- (5) A person is guilty of an offence if:
- (a) a notice is given to the person under subsection (1) that orders goods into quarantine and does one or more of the things mentioned in paragraphs (2)(c) to (f); and
  - (b) the person contravenes a requirement in the notice; and
  - (c) the person is reckless as to whether the goods posed a quarantine risk.

Maximum penalty: Imprisonment for 2 years.

- (6) A person is guilty of an offence if:
- (a) a notice is given to the person under subsection (1) that does one or more of the things mentioned in paragraphs (2)(c) to (f) (but does not order the goods into quarantine); and
  - (b) the person contravenes a requirement in the notice.

Maximum penalty: Imprisonment for 2 years.

*Later electronic notices*

- (7) An electronic notice given under this section may vary or revoke an earlier electronic notice given under this section.
- (8) If an electronic notice given under this section is inconsistent with an earlier electronic notice given under this section, the earlier notice is, to the extent of the inconsistency, of no effect.

*This section in addition to other powers*

- (9) This section is in addition to any power of a quarantine officer under this Act.

*Orders or directions under other provisions prevail*

- (10) If an order or direction given by a quarantine officer under this Act is inconsistent with an electronic notice, the notice is, to the extent of the inconsistency, of no effect.

*Definitions*

- (11) In this section:

*electronic notice* means an electronic notice generated as a result of the operation of a computer program under the control of the Director of Animal and Plant Quarantine.

**16 Subsection 66AA(5) (after paragraph (b) of the definition of *infected goods*)**

Insert:

- (ba) goods that are quarantinable pests or quarantinable diseases;
- (bb) goods that a quarantine officer suspects, on reasonable grounds, to be quarantinable pests or quarantinable diseases;

**17 Subparagraph 66AE(2)(a)(iii)**

Repeal the subparagraph, substitute:

- (iii) premises at which procedures are authorised under a compliance agreement to be carried out; or

**18 Subsection 66B(8)**

Insert:

*goods* has the meaning given by subsection 5(1), and includes a vessel.

**19 At the end of section 66B**

Add:

- (9) The definition of *goods* in subsection (8) does not affect the meaning of *goods* in any other provision of this Act.

**20 Paragraph 68(4)(a)**

Repeal the paragraph, substitute:

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**Schedule 1** Quarantine

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- (a) in respect of animals, plants or other goods imported or introduced into, or brought into any port or other place in, Australia or the Cocos Islands—to the importer or consignee of the goods; or

## Schedule 2—Wine and brandy

### *Australian Wine and Brandy Corporation Act 1980*

#### **1 Subsection 29U(2)**

After “wine grapes levy,”, insert “wine export charge”.

#### **2 Subsection 29U(2)**

After “that levy”, insert “or charge”.

#### **3 Section 29Z**

Repeal the section.

#### **4 Section 29ZA**

After “*Primary Industries (Excise) Levies Act 1999*”, insert “or subclause 5(1) of Schedule 13 to the *Primary Industries (Customs) Charges Act 1999*”.

#### **5 At the end of subparagraphs 46(1)(a)(i), (ii) and (iii)**

Add “and”.

#### **6 After subparagraph 46(1)(a)(iv)**

Insert:

- (iva) the method of determining the number of votes that an eligible producer (within the meaning of section 29U) may cast at such meetings; and

#### **7 At the end of paragraph 46(1)(a)**

Add:

- ; and (vi) the confidentiality of voting at such meetings;

### *Public Employment (Consequential and Transitional) Amendment Act 1999*

#### **8 Item 277 of Schedule 1**

Repeal the item, substitute:

**277 Subsection 39ZL(1A)**

Omit “a Department of the Commonwealth”, substitute “an Agency (within the meaning of the *Public Service Act 1999*)”.

Note: This item corrects a misdescribed amendment of the *Australian Wine and Brandy Corporation Act 1980*.

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*[Minister’s second reading speech made in—  
House of Representatives on 28 June 2000  
Senate on 4 September 2000]*

(116/00)