

## **EXPLANATORY STATEMENT**

### *Biosecurity Act 2015*

#### *Biosecurity (Suspended Goods—Uncooked Prawns) Amendment (Exceptions) Determination (No.4) 2017*

### **Legislative Authority**

Subsection 182(1) of the *Biosecurity Act 2015* (the Act) provides that the Director of Biosecurity may determine that specified goods, or a specified class of goods, (including conditionally non-prohibited goods) must not be brought into Australian territory for a specified period that is no longer than 6 months.

Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

### **Purpose**

The *Biosecurity (Suspended Goods—Uncooked Prawns) Determination 2017* (Principal Determination) prohibits uncooked prawns and uncooked prawn meat from being brought into or imported to Australian territory. The purpose of the *Biosecurity (Suspended Goods—Uncooked Prawns) Amendment (Exceptions) Determination (No. 4) 2017* (Amendment Determination) is to exempt from the prohibition imposed by the Principal Determination uncooked prawns and uncooked prawn meat (whether or not mixed with other ingredients) that is marinated for human consumption.

### **Background**

On 6 January 2017, the Director of Biosecurity made the Principal Determination to prohibit uncooked prawns and uncooked prawn meat from being brought into or imported to Australian territory for a period of 6 months. The purpose of the Principal Determination is to manage the biosecurity risk posed by imported uncooked prawns to an acceptably low level.

The biosecurity risks associated with WSSV in relation to uncooked prawns and uncooked prawn meat (whether or not mixed with other ingredients) that is marinated for human consumption were assessed.

The assessment show that those goods, where accompanied by a foreign country health certificate and subject to inspection and testing on-arrival, represent an acceptable level of biosecurity that meets Australia's Appropriate Level of Protection (ALOP).

### **Impact and Effect**

Under the Amendment Determination, uncooked prawns and uncooked prawn meat will not be allowed to be brought into or imported to Australian territory for the duration of the Principal Determination unless they fall within one or more of the exceptions.

## **Consultation**

The department continues to work with relevant stakeholders in relation to the Principal Determination. The department has ensured appropriate internal consultation has taken place so that stakeholders can be supported once the Amendment Determination commences.

## **Details/ Operation**

Details of the Amendment Determination are set out in the [Attachment](#).

The Amendment Determination is a legislative instrument but, under section 182(6) of the Act, section 42 (disallowance) of the *Legislation Act 2003* does not apply to the Amendment Determination. Consequently, a Statement of Compatibility with Human Rights is not required.

**Details of the *Biosecurity (Suspended Goods—Uncooked Prawns) Amendment (Exceptions) Determination (No. 4) 2017***

Section 1 – Name

This section provides that the name of the Amendment Determination is the *Biosecurity (Suspended Goods—Uncooked Prawns) Amendment (Exceptions) Determination (No. 4) 2017*.

Section 2 – Commencement

This section provides that sections 1 to 6 and Schedule 2 commences the day after registration. Schedule 1 commences after the end of the period of eight weeks beginning on the day of registration.

Section 3 – Authority

This section provides that the Amendment Determination is made under section 182(1) of the *Biosecurity Act 2015* (Act).

Section 4 – Definitions

This section sets out defined terms used in the Amendment Determination. It notes that a number of terms used in the Amendment Determination are defined in the Act.

Section 5 – Reasons for making this determination

This section provides the reasons for making the determination as required by section 182(5) of the *Biosecurity Act 2015*.

The reasons explain why, having undertaken further assessment of the biosecurity risks associated with the proscribed class of goods, that it is possible to except further goods from the suspension under the Principal Determination. Detailed reasons are set out in Schedule 2.

Section 6 – Schedules

This section provides that the Amendment Determination is amended as set out in Schedules concerned, and any other item in a Schedule has effect according to its terms.

Schedule 1 – Amendments commencing on the day after registration

This Schedule amends the *Biosecurity (Suspended Goods—Uncooked Prawns) Determination 2017*.

**Item 1** inserts at the end of the bulleted list in the note under section 5 ‘the *Biosecurity (Suspended Goods—Uncooked Prawns) Amendment (Exceptions) Determination (No. 4) 2017*’.

**Item 2** inserts at the end of subsection 7(3):

- (k) uncooked prawns and uncooked prawn meat, whether or not mixed with other ingredients (the *product*), if the product is:
  - (i) marinated for human consumption; and
  - (ii) accompanied by a foreign country health certificate that relates to the product.

#### Schedule 2—Reasons—reasons for the amendments set out in Schedule 1

This Schedule sets out the statement of reasons for exempting uncooked prawns and uncooked prawn meat marinated for human consumption. The reasons are as follows:

Uncooked prawns marinated for human consumption, where certified free of WSSV and YHV by an overseas authority, and inspected on-arrival and tested for WSSV and YHV, represent an acceptable level of biosecurity risk that meets Australia's ALOP on the basis that:

- Uncooked marinated prawns released from biosecurity control will have an acceptably low prevalence of WSSV and YHV; and
- Uncooked marinated prawns are considered sufficiently modified through processing to reduce their likelihood of diversion to unintended end-uses (bait, berley or aquatic animal feed) to an acceptably low level.

Certification by the overseas authority that batches are found to be free of WSSV and YHV, and on-arrival inspection and testing for WSSV and YHV, are considered necessary risk management measures for uncooked marinated prawns to meet an acceptably low level of biosecurity risk:

- Conditions on import permits may include:
  - Exporting country certification that all batches of uncooked marinated prawns are found to be free of WSSV and YHV based on an OIE-recognised testing method to confirm freedom from disease. Overseas authority certification supports risk management across the biosecurity continuum.
- Intervention on arrival may include:
  - increased on-arrival inspections of all batches to ensure they meet the conditions specified on the import permit; and
  - an appropriate level of on-arrival testing for WSSV and YHV. The appropriate level of testing for marinated prawns is 100 percent of batches with a sampling rate that provides 95 percent confidence at 5 percent prevalence, with 100 percent seals intact inspection; and
  - holding the product in a premises covered by an approved arrangement pending confirmation of a negative test result from an approved Australian laboratory.
- Should a positive test result be found onshore, the measures may include:
  - ordering the product to be exported from Australian territory, destroyed or treated; or
  - if the importer requested, at the importer's expense, conducting a (positive result) retest at the Australian Animal Health Laboratory (AAHL).