

EXPLANATORY STATEMENT

Biosecurity Act 2015

Biosecurity (Prohibited and Conditionally Non-prohibited Goods) Amendment (Lists) Determination 2017

Legislative Authority

The *Biosecurity (Prohibited and Conditionally Non-prohibited Goods) Determination 2016* (the Goods Determination) is made by the Director of Biosecurity and the Director of Human Biosecurity under subsection 174(1) the *Biosecurity Act 2015* (the Act) and provides that specified classes of goods must not be brought or imported into Australian territory unless the import complies with the conditions that are specified in the Goods Determination.

Purpose

The purpose of the *Biosecurity (Prohibited and Conditionally Non-prohibited Goods) Amendment (Lists) Determination 2017* (the Amendment Determination) is to amend the Goods Determination to incorporate updated versions of various lists, which form part of the alternative conditions established by the Goods Determination. This will ensure that biosecurity risks are able to be managed to an acceptably low level, while ensuring a reduced regulatory burden for importers of goods that can be imported under the alternative conditions rather than under an import permit.

The Amendment Determination also makes consequential amendments to:

- (a) *Biosecurity (Prohibited and Conditionally Non-prohibited Goods – Christmas Island) Determination 2016*;
- (b) *Biosecurity (Prohibited and Conditionally Non-prohibited Goods – Cocos (Keeling) Islands) Determination 2016*; and
- (c) *Biosecurity (Prohibited and Conditionally Non-prohibited Goods – Norfolk Island) Determination 2016*.

Background

The Goods Determination places regulatory controls on imports by specifying conditions that must be met to bring or import goods into Australian territory. Biosecurity risks associated with those goods are managed in order to meet the Appropriate Level of Protection for Australia. The lists referred to in the Goods Determination have not been updated since the commencement of the Act.

Impact and Effect

The Amendment Determination changes the effective date of incorporation into the Goods Determination of various lists published on the Department of Agriculture and Water Resources' (the department) website, which cover goods that can have their biosecurity risk effectively managed by the alternative conditions. The content of these lists have been amended in light of changes to biosecurity risk and changes to how biosecurity risk is managed, since the Goods Determination was first made. The lists cannot be updated without

this amendment. The updated lists will be published to exist on the commencement of this amendment.

The updated lists will mean that alternative conditions may also be satisfied for items added to the lists, instead of these items requiring an import permit before they may be brought or imported into Australian territory. Three lists will be repealed as they are no longer necessary to effectively manage the associated biosecurity risks, and currently impose undue regulatory burden on importers.

The Amendment Determination ensures that biosecurity risks continue to be effectively managed and that, where appropriate, regulatory burden is reduced for importers by allowing alternative conditions to be satisfied instead of requiring an import permit.

The Amendment Determination will also make consequential amendments for the Goods Determinations for Christmas Island, Cocos (Keeling) Islands, and Norfolk Island, as outlined in Schedules 2-4 in Attachment A.

Consultation

The department prepared the amendments to the Goods Determination based on feedback and communication with clients, stakeholders, and industry. The reduction of regulatory burden is welcomed by importers.

Details/Operation

Details of the Amendment Determination are set out in Attachment A. The amendments remove three lists that are no longer required to maintain biosecurity risk to an acceptably low level and incorporate 11 lists as existing on 30 June 2017. The lists will be updated on the department's website to coincide with the commencement of the amendments.

Other

The Amendment Determination is a legislative instrument, however under subsection 174(5) 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 (Prohibited and Conditionally Non-prohibited Goods) Amendment (Lists) Determination 2017*

Section 1 — Name

This section provides that the name of the determination is the *Biosecurity (Prohibited and Conditionally Non-prohibited Goods) Amendment (Lists) Determination 2017*.

Section 2 — Commencement

This section provides for the Amendment Determination to commence on 30 June 2017.

Section 3 — Authority

This section provides that the Amendment Determination is made under subsection 174 (1) of the *Biosecurity Act 2015*.

Section 4 — Schedules

This section provides that the instruments specified in the Schedules to the Amendment Determination are amended as set out in the applicable items in the Schedule concerned.

Schedule 1 — Amendment of the *Biosecurity (Prohibited and Conditionally Non-prohibited Goods) Determination 2016*

Item 1 Section 5 (definition of *Index Herbariorum*)

Item 1 amends the definition of *Index Herbariorum* by omitting “16 June 2016” and substituting “30 June 2017” to update the date on which the *Index Herbarium* is incorporated into the *Biosecurity (Prohibited and Conditionally Non-prohibited Goods) Determination 2016* (the Goods Determination). This means that the *Index Herbariorum*, as it exists on 30 June 2017, will be incorporated into the Goods Determination.

Item 2 Section 5 (definition of *listed coir peat testing laboratory*)

Item 2 repeals the definition of listed coir peat testing laboratory. This amendment is a consequence of the amendment made by item 14. The list is no longer required as the biosecurity risk can be effectively managed without the need for laboratory testing.

Item 3 Section 5 (definition of *listed dried or preserved cut flowers or foliage*)

Item 3 amends the definition of listed dried or preserved cut flowers or foliage by omitting “16 June 2016” and substituting “30 June 2017” to enable the list referred to by that definition to be incorporated into the Goods Determination, as it exists on 30 June 2017.

Item 4 Section 5 (definition of *listed fresh cut flowers or foliage*)

Item 4 amends the definition of listed fresh cut flowers or foliage by omitting “16 June 2016” and substituting “30 June 2017” to enable the list referred to by that definition to be incorporated into the Goods Determination, as it exists on 30 June 2017.

Item 5 Section 5 (definition of *listed fresh produce for human consumption*)

Item 5 amends the definition of listed fresh produce for human consumption by omitting “16 June 2016” and substituting “30 June 2017” to enable the list referred to by that definition to be incorporated into the Goods Determination, as it exists on 30 June 2017.

Item 6 Section 5 (definition of *listed mushrooms or truffles (dried)*)

Item 6 amends the definition of listed mushrooms or truffles (dried) by omitting “16 June 2016” and substituting “30 June 2017” to enable the list referred to by that definition to be incorporated into the Goods Determination, as it exists on 30 June 2017.

Item 7 Section 5 (definition of *listed mushrooms or truffles (frozen)*)

Item 7 amends the definition of listed mushrooms or truffles (frozen) by omitting “16 June 2016” and substituting “30 June 2017” to enable the list referred to by that definition to be incorporated into the Goods Determination, as it exists on 30 June 2017.

Item 8 Section 5 (definition of *listed permitted Allium spp. seeds*)

Item 8 amends the definition of listed permitted *Allium spp.* seeds by omitting “16 June 2016” and substituting “30 June 2017” to enable the list referred to by that definition to be incorporated into the Goods Determination, as it exists on 30 June 2017.

Item 9 Section 5 (definition of *listed permitted Arecaceae (palm) seeds*)

Item 9 amends the definition of listed permitted *Arecaceae* (palm) seeds by omitting “16 June 2016” and substituting “30 June 2017” to enable the list referred to by that definition to be incorporated into the Goods Determination, as it exists on 30 June 2017.

Item 10 Section 5 (definition of *listed permitted bark*)

Item 10 repeals the definition of listed permitted bark because the biosecurity risk of all bark for human consumption can be effectively managed by the alternative conditions in item 6 of section 32 of the Goods Determination, once amended by items 15 and 16 of this determination.

Item 11 Section 5 (definition of *listed permitted seeds*)

Item 11 amends the definition of listed permitted seeds by omitting “16 June 2016” and substituting “30 June 2017” to enable the list referred to by that definition to be incorporated into the Goods Determination, as it exists on 30 June 2017.

Item 12 Section 5 (definition of *listed plant fibres*)

Item 12 amends the definition of listed plant fibres by omitting “16 June 2016” and substituting “30 June 2017” to enable the list referred to by that definition to be incorporated into the Goods Determination, as it exists on 30 June 2017.

Item 13 Section 5 (definition of *List of Overseas Authorities–Aquatic Animals for Import*)

Item 13 amends the definition of List of Overseas Authorities–Aquatic Animals for Import by omitting “16 June 2016” and substituting “30 June 2017” to enable the list referred to by that definition to be incorporated into the Goods Determination, as it exists on 30 June 2017.

Item 14 Section 28 (cell at table item 4, column 2)

Item 14 repeals the cell and substitutes new text to remove the requirement for a certificate of analysis given by a listed coir peat testing laboratory to accompany imports of coir peat under the alternative conditions set out in table item 4 of section 28. The amendment is required because the biosecurity risk from coir peat can be effectively managed by the remaining alternative conditions, without the need for laboratory testing.

Item 15 Section 30 (table item 1, column 2, paragraph (c))

Item 15 amends section 30 item 1 by omitting “; and”. This is a consequence of the amendment made by item 16.

Item 16 Section 30 (table item 1, column 2, paragraph (d))

Item 16 repeals paragraph (d) in column 2 because the standards for seed contaminants and tolerances are no longer required to effectively manage biosecurity risk.

Item 17 Section 30 (table item 2, column 2, paragraph (e))

Item 17 amends section 30 item 1 by omitting “; and”. This is a consequence of the amendment made by item 18.

Item 18 Section 30 (table item 2, column 2, paragraph (f))

Item 18 repeals paragraph (f) in column 2 because the standards for seed contaminants and tolerances are no longer required to effectively manage biosecurity risk.

Item 19 Section 30 (table item 3, column 2, paragraph (e))

Item 19 amends section 30 item 1 by omitting “; and”. This is a consequence of the amendment made by item 20.

Item 20 Section 30 (table item 3, column 2, paragraph (f))

Item 20 repeals paragraph (f) in column 2 because the standards for seed contaminants and tolerances are no longer required to effectively manage biosecurity risk.

Item 21 Section 31 (table item 6, column 2, subparagraph (a)(ii))

Item 21 amends section 31 item 6 by omitting the word “and” and substituting the word “or” at the end of subparagraph (a)(ii). This is a consequence of the amendment made by item 16.

Item 22 Section 31 (table item 6, column 2, subparagraph (a)(iii))

Item 22 repeals subparagraph (a)(iii) in column 2 because the biosecurity risk for all bark for human consumption can be effectively managed by the remaining alternative conditions so there is no longer a need to list permitted bark.

Schedule 2 — Amendment of the *Biosecurity (Prohibited and Conditionally Non-prohibited Goods – Christmas Island) Determination 2016*

Item 1 Section 22 (table item 4, column 2, subparagraph (b)(ii))

Item 1 repeals paragraph (b)(ii) in column 2 as the biosecurity risk from coir peat can be effectively managed by the remaining alternative conditions, without the need for laboratory testing.

Item 2 Section 24 (table item 1, column 2, paragraph (c))

Item 2 amends section 24 item 1 by omitting “; and”. This is a consequence of the amendment made by item 3.

Item 3 Section 24 (table item 1, column 2, paragraph (d))

Item 3 repeals paragraph (d) in column 2 because the standards for seed contaminants and tolerances are no longer required to effectively manage biosecurity risk.

Item 4 Section 24 (table item 2, column 2, paragraph (e))

Item 4 amends section 24 item 2 by omitting “; and”. This is a consequence of the amendment made by item 5.

Item 5 Section 24 (table item 2, column 2, paragraph (f))

Item 5 repeals paragraph (f) in column 2 because the standards for seed contaminants and tolerances are no longer required to effectively manage biosecurity risk.

Item 6 Section 24 (table item 3, column 2, paragraph (e))

Item 6 amends section 24 item 3 by omitting “; and”. This is a consequence of the amendment made by item 7.

Item 7 Section 24 (table item 3, column 2, paragraph (f))

Item 7 repeals paragraph (f) in column 2 because the standards for seed contaminants and tolerances are no longer required to effectively manage biosecurity risk.

Item 8 Section 25 (table item 5, column 2, subparagraph (a)(ii))

Item 8 amends section 25 item 5 by omitting the word “and” and substituting the word “or” at the end of subparagraph (a)(ii). This is a consequence of the amendment made by item 3.

Item 9 Section 25 (table item 5, column 2, subparagraph (a)(iii))

Item 9 repeals subparagraph (a)(iii) in column 2 because the biosecurity risk for all bark for human consumption can be effectively managed by the remaining alternative conditions so there is no longer a need to list permitted bark.

Schedule 3 — Amendment of the *Biosecurity (Prohibited and Conditionally Non-prohibited Goods – Cocos (Keeling) Islands) Determination 2016*

Item 1 Section 23 (table item 4, column 2, subparagraph (b)(ii))

Item 1 repeals paragraph (b) (ii) in column 2 as the biosecurity risk from coir peat can be effectively managed by the remaining alternative conditions, without the need for laboratory testing.

Item 2 Section 25 (table item 1, column 2, paragraph (c))

Item 2 amends section 25 item 1 by omitting “; and”. This is a consequence of the amendment made by item 3.

Item 3 Section 25 (table item 1, column 2, paragraph (d))

Item 3 repeals paragraph (d) in column 2 because the standards for seed contaminants and tolerances are no longer required to effectively manage biosecurity risk.

Item 4 Section 25 (table item 2, column 2, paragraph (e))

Item 4 amends section 25 item 2 by omitting “; and”. This is a consequence of the amendment made by item 5.

Item 5 Section 25 (table item 2, column 2, paragraph (f))

Item 5 repeals paragraph (f) in column 2 because the standards for seed contaminants and tolerances are no longer required to effectively manage biosecurity risk.

Item 6 Section 25 (table item 3, column 2, paragraph (e))

Item 6 amends section 25 item 3 by omitting “; and”. This is a consequence of the amendment made by item 7.

Item 7 Section 25 (table item 3, column 2, paragraph (f))

Item 7 repeals paragraph (f) in column 2 because the standards for seed contaminants and tolerances are no longer required to effectively manage biosecurity risk.

Item 8 Section 26 (table item 5, column 2, subparagraph (a)(ii))

Item 8 amends section 26 item 5 by omitting the word “and” and substituting the word “or” at the end of subparagraph (a) (ii). This is a consequence of the amendment made by item 3.

Item 9 Section 26 (table item 5, column 2, subparagraph (a)(iii))

Item 9 repeals subparagraph (a) (iii) in column 2 because the biosecurity risk for all bark for human consumption can be effectively managed by the remaining alternative conditions so there is no longer a need to list permitted bark.

Schedule 4 — Amendment of the *Biosecurity (Prohibited and Conditionally Non-prohibited Goods – Norfolk Island) Determination 2016*

Item 1 Section 22 (table item 4, column 2, subparagraph (b)(ii))

Item 1 repeals paragraph (b) (ii) in column 2 as the biosecurity risk from coir peat can be effectively managed by the remaining alternative conditions, without the need for laboratory testing.

Item 2 Section 24 (table item 1, column 2, paragraph (c))

Item 2 amends section 24 item 1 by omitting “; and”. This is a consequence of the amendment made by item 3.

Item 3 Section 24 (table item 1, column 2, paragraph (d))

Item 3 repeals paragraph (d) in column 2 because the standards for seed contaminants and tolerances are no longer required to effectively manage biosecurity risk.

Item 4 Section 24 (table item 2, column 2, paragraph (e))

Item 4 amends section 24 item 2 by omitting “; and”. This is a consequence of the amendment made by item 5.

Item 5 Section 24 (table item 2, column 2, paragraph (f))

Item 5 repeals paragraph (f) in column 2 because the standards for seed contaminants and tolerances are no longer required to effectively manage biosecurity risk.

Item 6 Section 24 (table item 3, column 2, paragraph (e))

Item 6 amends section 24 item 3 by omitting “; and”. This is a consequence of the amendment made by item 7.

Item 7 Section 24 (table item 3, column 2, paragraph (f))

Item 7 repeals paragraph (f) in column 2 because the standards for seed contaminants and tolerances are no longer required to effectively manage biosecurity risk.

Item 8 Section 25 (table item 5, column 2, subparagraph (a)(ii))

Item 8 amends section 25 item 5 by omitting the word “and” and substituting the word “or” at the end of subparagraph (a)(ii). This is a consequence of the amendment made by item 3.

Item 9 Section 25 (table item 5, column 2, subparagraph (a)(iii))

Item 9 repeals subparagraph (a)(iii) in column 2 because the biosecurity risk for all bark for human consumption can be effectively managed by the remaining alternative conditions so there is no longer a need to list permitted bark.