



Biosecurity Legislation (Prohibited and Conditionally Non-prohibited Goods) Amendment (Hitchhiker Pests and Other Measures) Determination 2018

We, Daryl Quinlivan, Director of Biosecurity, and Professor Brendan Murphy, Director of Human Biosecurity, make the following determination.

Dated 21 August 2018

Daryl Quinlivan
Director of Biosecurity

Brendan Murphy
Director of Human Biosecurity

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1 Name

This instrument is the *Biosecurity Legislation (Prohibited and Conditionally Non-prohibited Goods) Amendment (Hitchhiker Pests and Other Measures) Determination 2018*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	28 August 2018
2. Schedule 1	The later of: (a) the day after this instrument is registered; and (b) 31 August 2018.	31 August 2018 (paragraph (b) applies)
3. Schedule 2, item 1	At the same time as the provisions covered by table item 2.	31 August 2018
4. Schedule 2, item 2	The later of: (a) immediately after the commencement of the provisions covered by table item 2; and (b) the day item 4 of Schedule 1 to the <i>Biosecurity Legislation Amendment (Miscellaneous Measures) Act 2018</i> commences. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	1 September 2018 (paragraph (b) applies)
5. Schedule 2, items 3 to 7	The later of: (a) the day after this instrument is registered; and (b) the day item 4 of Schedule 1 to the <i>Biosecurity Legislation Amendment (Miscellaneous Measures) Act 2018</i> commences. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	1 September 2018 (paragraph (b) applies)

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under subsection 174(1) of the *Biosecurity Act 2015*.

4 Schedules

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

Schedule 1—Hitchhiker pest amendments

Part 1—Additional conditions for the mainland

Biosecurity (Prohibited and Conditionally Non-prohibited Goods) Determination 2016

1 Section 5

Insert:

listed hitchhiker pest means an insect or other pest that is listed in the List of Hitchhiker Pests prepared by the Director of Biosecurity and published on the Agriculture Department’s website, as existing on the day Schedule 1 to the *Biosecurity Legislation (Prohibited and Conditionally Non-prohibited Goods) Amendment (Hitchhiker Pests and Other Measures) Determination 2018* commences.

Note: An insect or other pest is listed in the List of Hitchhiker Pests if the Director of Biosecurity is satisfied that the insect or other pest may be present in or on goods and the insect or other pest may pose an unacceptable level of biosecurity risk.

List of Hitchhiker Pest Host Countries or Regions means the List with that name prepared by the Director of Biosecurity and published on the Agriculture Department’s website, as existing on the day Schedule 1 to the *Biosecurity Legislation (Prohibited and Conditionally Non-prohibited Goods) Amendment (Hitchhiker Pests and Other Measures) Determination 2018* commences.

Note: Goods from a specified country or region are listed in the List of Hitchhiker Pest Host Countries or Regions if the Director of Biosecurity is satisfied that, during a specified risk period, the goods pose an unacceptable level of biosecurity risk because a specified listed hitchhiker pest may be present in or on the goods.

List of Treatment Providers means the List with that name prepared by the Director of Biosecurity and published on the Agriculture Department’s website, as existing on the day Schedule 1 to the *Biosecurity Legislation (Prohibited and Conditionally Non-prohibited Goods) Amendment (Hitchhiker Pests and Other Measures) Determination 2018* commences.

Note: A treatment provider is listed in the List of Treatment Providers for one or more chemical, irradiation or other treatments if the Director of Biosecurity is satisfied the provider is able to apply those treatments to goods to manage biosecurity risks associated with the goods to an acceptable level.

2 After subsection 11(1) (before the note)

Insert:

Note 1: If Division 2A (which deals with hitchhiker pests) applies to goods included in a class of goods to which a provision of this Division applies, the additional conditions in Division 2A must also be complied with.

3 Subsection 11(1) (note)

Omit “Note”, substitute “Note 2”.

4 Division 2 of Part 2 (after the heading)

Insert:

Schedule 1 Hitchhiker pest amendments
Part 1 Additional conditions for the mainland

Note: If Division 2A (which deals with hitchhiker pests) applies to goods included in a class of goods to which a provision of this Division applies, the additional conditions in Division 2A must also be complied with.

5 After Division 2 of Part 2

Insert:

Division 2A—Additional conditions relating to hitchhiker pests

48A Goods posing hitchhiker pest biosecurity risks

Classes of goods to which this section applies

- (1) The class of goods to which this section applies is goods that are:
 - (a) listed in relation to one or more specified listed hitchhiker pests in the List of Hitchhiker Pest Host Countries or Regions; and
 - (b) produced, stored or loaded onto an aircraft or vessel:
 - (i) in a country or region specified in that List for those goods and that pest; and
 - (ii) during the risk period specified in that List for that country or region and those goods and that pest.

Conditions

- (2) Goods included in a class of goods to which this section applies must not be brought or imported into Australian territory unless:
 - (a) the goods:
 - (i) have been treated, using a treatment listed for the goods in the List of Hitchhiker Pest Host Countries or Regions, by a treatment provider listed for that treatment in the List of Treatment Providers; and
 - (ii) are accompanied by a certificate stating that the goods have been treated in accordance with subparagraph (i); and
 - (iii) are free from any live listed hitchhiker pests; or
 - (b) all of the following apply:
 - (i) the goods are contained in one or more sealed shipping containers;
 - (ii) each shipping container remains sealed after its arrival in Australian territory until it is opened for the goods to be treated in accordance with subparagraph (iii);
 - (iii) the goods are treated, in accordance with an approved arrangement and while subject to biosecurity control, using a treatment the Director of Biosecurity is satisfied is appropriate to manage the biosecurity risks associated with the goods to an acceptable level.
- (3) The conditions in subsection (2) are in addition to any conditions that must be complied with under Division 1 or 2.

Part 2—Additional conditions for Christmas Island

Biosecurity (Prohibited and Conditionally Non-prohibited Goods— Christmas Island) Determination 2016

6 After subsection 7(1)

Insert:

Note: If Division 3 (which deals with hitchhiker pests) applies to goods included in a class of goods to which a provision of this Division applies, the additional conditions in Division 3 must also be complied with.

7 Division 2 of Part 2 (after the heading)

Insert:

Note: If Division 3 (which deals with hitchhiker pests) applies to goods included in a class of goods to which a provision of this Division applies, the additional conditions in Division 3 must also be complied with.

8 At the end of Part 2

Add:

Division 3—Additional conditions relating to hitchhiker pests

43 Goods posing hitchhiker pest biosecurity risks

Classes of goods to which this section applies

- (1) The class of goods to which this section applies is goods that are:
 - (a) listed in relation to one or more specified listed hitchhiker pests in the List of Hitchhiker Pest Host Countries or Regions; and
 - (b) produced, stored or loaded onto an aircraft or vessel:
 - (i) in a country or region specified in that List for those goods and that pest; and
 - (ii) during the risk period specified in that List for that country or region and those goods and that pest.

Conditions

- (2) Goods included in a class of goods to which this section applies must not be brought or imported into Christmas Island unless:
 - (a) the goods:
 - (i) have been treated, using a treatment listed for the goods in the List of Hitchhiker Pest Host Countries or Regions, by a treatment provider listed for that treatment in the List of Treatment Providers; and
 - (ii) are accompanied by a certificate stating that the goods have been treated in accordance with subparagraph (i); and
 - (iii) are free from any live listed hitchhiker pests; or
 - (b) all of the following apply:
 - (i) the goods are contained in one or more sealed shipping containers;

Schedule 1 Hitchhiker pest amendments

Part 2 Additional conditions for Christmas Island

- (ii) each shipping container remains sealed after its arrival in Christmas Island until it is opened for the goods to be treated in accordance with subparagraph (iii);
 - (iii) the goods are treated, in accordance with an approved arrangement and while subject to biosecurity control, using a treatment the Director of Biosecurity is satisfied is appropriate to manage the biosecurity risks associated with the goods to an acceptable level.
- (3) The conditions in subsection (2) are in addition to any conditions that must be complied with under Division 1 or 2.

Note: For *listed hitchhiker pest*, *List of Hitchhiker Pest Host Countries or Regions* and *List of Treatment Providers*, see section 5 of the *Biosecurity (Prohibited and Conditionally Non-prohibited Goods) Determination 2016*.

Part 3—Additional conditions for Cocos (Keeling) Islands

Biosecurity (Prohibited and Conditionally Non-prohibited Goods— Cocos (Keeling) Islands) Determination 2016

9 After subsection 7(1)

Insert:

Note: If Division 3 (which deals with hitchhiker pests) applies to goods included in a class of goods to which a provision of this Division applies, the additional conditions in Division 3 must also be complied with.

10 Division 2 of Part 2 (after the heading)

Insert:

Note: If Division 3 (which deals with hitchhiker pests) applies to goods included in a class of goods to which a provision of this Division applies, the additional conditions in Division 3 must also be complied with.

11 At the end of Part 2

Add:

Division 3—Additional conditions relating to hitchhiker pests

44 Goods posing hitchhiker pest biosecurity risks

Classes of goods to which this section applies

- (1) The class of goods to which this section applies is goods that are:
 - (a) listed in relation to one or more specified listed hitchhiker pests in the List of Hitchhiker Pest Host Countries or Regions; and
 - (b) produced, stored or loaded onto an aircraft or vessel:
 - (i) in a country or region specified in that List for those goods and that pest; and
 - (ii) during the risk period specified in that List for that country or region and those goods and that pest.

Conditions

- (2) Goods included in a class of goods to which this section applies must not be brought or imported into Cocos (Keeling) Islands unless:
 - (a) the goods:
 - (i) have been treated, using a treatment listed for the goods in the List of Hitchhiker Pest Host Countries or Regions, by a treatment provider listed for that treatment in the List of Treatment Providers; and
 - (ii) are accompanied by a certificate stating that the goods have been treated in accordance with subparagraph (i); and
 - (iii) are free from any live listed hitchhiker pests; or
 - (b) all of the following apply:
 - (i) the goods are contained in one or more sealed shipping containers;

Schedule 1 Hitchhiker pest amendments

Part 3 Additional conditions for Cocos (Keeling) Islands

- (ii) each shipping container remains sealed after its arrival in Cocos (Keeling) Islands until it is opened for the goods to be treated in accordance with subparagraph (iii);
 - (iii) the goods are treated, in accordance with an approved arrangement and while subject to biosecurity control, using a treatment the Director of Biosecurity is satisfied is appropriate to manage the biosecurity risks associated with the goods to an acceptable level.
- (3) The conditions in subsection (2) are in addition to any conditions that must be complied with under Division 1 or 2.

Note: For *listed hitchhiker pest*, *List of Hitchhiker Pest Host Countries or Regions* and *List of Treatment Providers*, see section 5 of the *Biosecurity (Prohibited and Conditionally Non-prohibited Goods) Determination 2016*.

Part 4—Additional conditions for Norfolk Island

Biosecurity (Prohibited and Conditionally Non-prohibited Goods— Norfolk Island) Determination 2016

12 After subsection 7(1)

Insert:

Note: If Division 3 (which deals with hitchhiker pests) applies to goods included in a class of goods to which a provision of this Division applies, the additional conditions in Division 3 must also be complied with.

13 Division 2 of Part 2 (after the heading)

Insert:

Note: If Division 3 (which deals with hitchhiker pests) applies to goods included in a class of goods to which a provision of this Division applies, the additional conditions in Division 3 must also be complied with.

14 At the end of Part 2

Add:

Division 3—Additional conditions relating to hitchhiker pests

43 Goods posing hitchhiker pest biosecurity risks

Classes of goods to which this section applies

- (1) The class of goods to which this section applies is goods that are:
 - (a) listed in relation to one or more specified listed hitchhiker pests in the List of Hitchhiker Pest Host Countries or Regions; and
 - (b) produced, stored or loaded onto an aircraft or vessel:
 - (i) in a country or region specified in that List for those goods and that pest; and
 - (ii) during the risk period specified in that List for that country or region and those goods and that pest.

Conditions

- (2) Goods included in a class of goods to which this section applies must not be brought or imported into Norfolk Island unless:
 - (a) the goods:
 - (i) have been treated, using a treatment listed for the goods in the List of Hitchhiker Pest Host Countries or Regions, by a treatment provider listed for that treatment in the List of Treatment Providers; and
 - (ii) are accompanied by a certificate stating that the goods have been treated in accordance with subparagraph (i); and
 - (iii) are free from any live listed hitchhiker pests; or
 - (b) all of the following apply:
 - (i) the goods are contained in one or more sealed shipping containers;

Schedule 1 Hitchhiker pest amendments
Part 4 Additional conditions for Norfolk Island

- (ii) each shipping container remains sealed after its arrival in Norfolk Island until it is opened for the goods to be treated in accordance with subparagraph (iii);
 - (iii) the goods are treated, in accordance with an approved arrangement and while subject to biosecurity control, using a treatment the Director of Biosecurity is satisfied is appropriate to manage the biosecurity risks associated with the goods to an acceptable level.
- (3) The conditions in subsection (2) are in addition to any conditions that must be complied with under Division 1 or 2.

Note: For *listed hitchhiker pest*, *List of Hitchhiker Pest Host Countries or Regions* and *List of Treatment Providers*, see section 5 of the *Biosecurity (Prohibited and Conditionally Non-prohibited Goods) Determination 2016*.

Schedule 2—Other amendments

Part 1—Conditions for the mainland

Biosecurity (Prohibited and Conditionally Non-prohibited Goods) Determination 2016

1 Section 5 (definition of *FMD-free country*)

Omit “a list”, substitute “the FMD-free Country List prepared by the Director of Biosecurity and”.

2 Section 5 (definitions of *listed hitchhiker pest, List of Hitchhiker Pest Host Countries or Regions and List of Treatment Providers*)

Omit “on the day Schedule 1 to the *Biosecurity Legislation (Prohibited and Conditionally Non-prohibited Goods) Amendment (Hitchhiker Pests and Other Measures) Determination 2018* commences”, substitute “from time to time”.

3 Amendments of listed provisions

The definitions in section 5 listed in the following table are amended as set out in the table.

Amendments relating to incorporated documents			
Item	Definition	Omit	Substitute
1	Definition of <i>FMD-free country</i>	on 25 July 2018	from time to time
2	Definition of <i>Index Herbariorum</i>	as it exists on 30 June 2017	as existing from time to time
3	Definition of <i>International Plant Protection Convention</i>	on 16 June 2016	from time to time
4	Definition of <i>listed country for canine semen</i>	on 21 December 2017	from time to time
5	Definition of <i>listed country for natural casings derived from bovine, caprine, ovine or porcine animals</i>	on 21 December 2017	from time to time
6	Definition of <i>listed dried or preserved cut flowers or foliage</i>	on 30 June 2017	from time to time
7	Definition of <i>listed fresh produce for human consumption</i>	on 25 July 2018	from time to time
8	Definition of <i>listed medicinal mushrooms</i>	on 21 December 2017	from time to time
9	Definition of <i>listed mushrooms or truffles (dried)</i>	on 30 June 2017	from time to time
10	Definition of <i>listed</i>	on 30 June 2017	from time to time

Schedule 2 Other amendments
Part 1 Conditions for the mainland

Amendments relating to incorporated documents			
Item	Definition	Omit	Substitute
	<i>mushrooms or truffles (frozen)</i>		
11	Definition of <i>listed permitted Allium spp. seeds</i>	on 30 June 2017	from time to time
12	Definition of <i>listed permitted Arecaceae (palm) seeds</i>	on 30 June 2017	from time to time
13	Definition of <i>listed permitted seeds</i>	on 25 July 2018	from time to time
14	Definition of <i>listed plant fibres</i>	on 25 July 2018	from time to time
15	Definition of <i>List of Overseas Authorities—Aquatic Animals for Import</i>	on 30 June 2017	from time to time
16	Definition of <i>List of Species of Fresh Cut Flowers and Foliage with Alternative Conditions for Import</i>	on 1 March 2018	from time to time

Part 2—Conditions for Christmas Island

Biosecurity (Prohibited and Conditionally Non-prohibited Goods— Christmas Island) Determination 2016

4 Subsection 5(1) (definition of *listed fresh cut flowers or foliage* (*Christmas Island and Cocos (Keeling) Islands*))

Omit “on 1 March 2018”, substitute “from time to time”.

Part 3—Conditions for Cocos (Keeling) Islands

Biosecurity (Prohibited and Conditionally Non-prohibited Goods— Cocos (Keeling) Islands) Determination 2016

5 Subsection 5(1) (definition of *listed fresh cut flowers or foliage* (*Christmas Island and Cocos (Keeling) Islands*))

Omit “on 1 March 2018”, substitute “from time to time”.

Part 4—Conditions for Norfolk Island

Biosecurity (Prohibited and Conditionally Non-prohibited Goods— Norfolk Island) Determination 2016

6 Subsection 5(1) (definition of *listed fresh cut flowers or foliage* (*Norfolk Island*))

Omit “on 1 March 2018”, substitute “from time to time”.

7 Subsection 5(1) (definition of *listed fresh produce for human* *consumption (Norfolk Island)*)

Omit “on 21 December 2017”, substitute “from time to time”.