



ACT
Government

REGULATORY IMPACT STATEMENT

Animal Diseases (Import Restriction) Declaration 2016

DI2016-313

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Purpose

The purpose of this regulatory impact statement is to provide information about the regulatory impact of the *Animal Diseases (Import Restriction) Declaration 2016* (the **declaration**), made under the *Animal Diseases Act 2005* (the **Act**). The declaration declares an import and sales restriction on declared animals and equipment used in connection with the cultivation or catch of declared animals from an import restriction area; that is, uncooked prawns cultivated within a 10 kilometre radius of the mouth of the Logan River in Queensland.

Policy problem

On 30 November 2016, Queensland's Biosecurity Sciences Laboratory detected whitespot disease in a prawn farm on the Logan River in Queensland. By 14 December 2016, whitespot disease was confirmed on 3 additional prawn farms on the Logan River.

Whitespot disease is a highly contagious disease of prawns. It is caused by a virus known as white spot syndrome virus. Other species of crustaceans can be affected by the virus, and can also act as carriers. Whitespot disease is widespread throughout prawn farming regions in Asia and has become established in prawns farmed in the Americas where it has caused severe losses to the crustacean industry. Whitespot disease causes high rates of prawn mortality in affected stock but does not pose a threat to human health or food safety.

Australia is one of the few countries in the world with a prawn farming industry that has remained free of whitespot disease. The disease and the virus that causes it were both exotic to Australia, and pose a significant threat to Australia's crustacean industries.

In response to the outbreak, the Queensland Government has placed a movement control order on uncooked crustaceans from the Logan and Albert Rivers, and several other Australian jurisdictions, including New South Wales, have indicated their intention to prohibit the import from the Logan River of uncooked prawns or equipments used in connection with prawns. The New South Wales prohibition order on the importation of uncooked prawns from the Logan River commenced on 9 December 2016.

The authorising law

The object of the Act is to protect the health and welfare of people and animals and to protect markets for animal products by providing mechanisms for the detection, prevention and control of outbreaks of animal diseases in the ACT and assisting in the prevention and control of outbreaks of animal diseases in other jurisdictions within Australia.

Section 15 (1) of the Act authorises the Minister to declare an area outside the ACT to be subject to an import restriction if the Minister has reasonable grounds for believing that an animal in the area is infected with an exotic disease and the declaration is necessary to prevent the spread of the disease.

Whitespot disease is declared an exotic disease in the ACT under the *Animal Diseases (Exotic Diseases) Declaration 2011 (No 1)*.

Section 15 (5) of the Act creates an offence if a person contravenes a restriction in an import restriction declaration. The maximum penalty on conviction of this offence is 50 penalty units, imprisonment for 6 months, or both.

Objectives of the declaration

The declaration solves the policy problem outlined above by restricting the import and sale of penaeid prawns (defined as crustaceans from the family Penaeidae, including but not limited to school, tiger and banana prawns) and the equipment used in the cultivation and catching of prawns from the vicinity of the Logan River. This is to reduce the risk of whitespot disease spreading to the ACT or to another jurisdiction via the ACT.

The import and sales restrictions do not apply to prawns from the vicinity of the Logan River that have been cooked for human consumption, are securely packaged and are transported directly to a point of sale for human consumption.

The import restriction does not apply to equipment that has been cleaned and disinfected to remove all traces of prawn or prawn products.

Consistency of the declaration with the Act

Section 15 (1) of the Act authorises the Minister to declare an area outside the ACT to be subject to an import restriction, if the Minister has reasonable grounds for believing that an animal in the area is infected with an exotic disease and the declaration is necessary to prevent the spread of the disease.

Having been advised of the outbreak of whitespot disease in Queensland, the fact that it is highly contagious and that it can be spread via freshwater crustaceans, the Minister reasonably believes that making the declaration is necessary to prevent the spread of the disease both within the borders of the ACT and across the border to New South Wales.

Section 15 (3) of the Act prescribes the content of an import restriction declaration, including that it states—

- (a) the animals to which the declaration applies;
- (b) the disease in relation to which the declaration is made;

- (c) the area to which the declaration applies;
- (d) the restrictions on importing into the ACT an animal, animal product or other thing that has, at any time during a stated period, been in the areas; and
- (e) if the declaration is to have effect for a limited period—the period.

The declaration provides that—

- (a) it applies to penaeid prawns, defined as crustaceans of the family Penaeidae;
- (b) it applies to whitespot disease;
- (c) it applies to the area within a 10 kilometre radius of the mouth of the Logan River in Queensland;
- (d) restrictions are placed on importing into the ACT—
 - (i) penaeid prawns from the import restriction area; and
 - (ii) equipment that has been in contact with prawns—
from the import restriction area;
- (e) restrictions are placed on the sale in the ACT of penaeid prawns sourced from the import restriction area; and
- (f) the declaration is only to have effect in relation to prawns or prawn equipment that have been present in the import restriction area since 1 November 2016. The declaration expires on 1 June 2017.

The declaration is consistent with the objects of the Act as it protects markets for crustacean products by preventing and controlling the outbreak of an exotic animal disease in the ACT and assisting in the prevention and control of the outbreak of the exotic animal disease in another jurisdiction.

Consideration of alternative options

If the declaration were not made, the ACT could attempt to rely on the Queensland Government's movement control order on uncooked crustaceans from the Logan and Albert Rivers; however, that order only prevents the movement of crustaceans from and within Queensland. The ACT declaration restricts the importation into and sale in the ACT of prawns from the import restriction area as an added protection to prevent an outbreak of whitespot disease in the ACT.

As a signatory to the Intergovernmental Agreement on Biosecurity, the ACT is committed to strengthening its working partnership with other Australian governments to improve the national biosecurity system and minimise the impact of animal diseases on Australia's economy, environment and community. Making the declaration assists in the ACT's contribution to a national response to the whitespot disease outbreak.

Cost/benefit analysis of implementing the declaration

There may be some costs to seafood suppliers and restaurants in the ACT as a result of the declaration that uncooked prawns from the Logan River are prohibited from import into and sale in the ACT; however, cooked prawns are not covered by the prohibition. Seafood suppliers and restaurants may need to identify and engage alternative suppliers for uncooked prawns.

The benefit of implementing the declaration is reducing the risk of further spreading the whitespot disease throughout Australia, including into the ACT where the disease may make its way into freshwater rivers and creeks and infect freshwater crustaceans.

The cost associated with implementing the instrument until 1 June 2017 is less expensive than later being forced to implement biosecurity measures aimed at controlling, mitigating or eradicating whitespot disease should it ever enter ACT waterways.

Consultation

The response to the outbreak of whitespot disease on the Logan River is being coordinated by the national Aquatic Consultative Committee on Emergency Animal Diseases, which contains representatives from all Australian jurisdictions, the Australian Government Department of Agriculture and Water Resources, the CSIRO, and industry. Further targeted consultation has occurred with the New South Wales Department of Primary Industries, to ensure that the ACT's response to the outbreak is aligned with that State's.

The Chief Veterinary Officer has alerted the main seafood importers in the ACT of the whitespot disease outbreak in Queensland and its potential effect on the ACT prawn market. Ongoing consultation on this issue will occur with seafood importers and all major retailers.

Consistency of the declaration with scrutiny committee principles

The Scrutiny of Bills Committee's terms of reference require it to consider whether (among other things) any instrument of a legislative nature made under an Act which is subject to disallowance and/or disapproval by the Assembly—

- is in accord with the general objects of the Act under which it is made;
- unduly trespasses on rights previously established by law;
- makes rights, liberties and/or obligations unduly dependent upon non-reviewable decisions; or
- contains a matter which in the opinion of the Committee should properly be dealt with in an Act of the Legislative Assembly.

The declaration is consistent with the objects of the Act as it protects markets for crustacean products by preventing the outbreak of an exotic animal disease in the ACT and assisting in the prevention and control of the outbreak of the exotic animal disease in other jurisdictions within Australia.

The declaration does not unduly trespass on rights previously established by law. The declaration restricts the import into and sale in the ACT of prawns and import of prawn equipment from a defined area for a limited period.

The declaration is subject to disallowance by the Legislative Assembly. Should a person contravene the import restriction declaration, normal prosecution procedures would be followed. This includes the ability of a convicted person to seek to appeal their conviction.

Making an import restriction declaration is a matter which is expressly provided for in the Act. As biosecurity measures need to be implemented as soon as possible to reduce the risk of an exotic disease spreading it is appropriate to be dealt with in a disallowable instrument rather than within an Act of the Legislative Assembly.