

LEGISLATIVE COUNCIL

Biosecurity Bill 2014

Second print

Proposed amendments

No. 1 **Permitted plants and unlisted plants**

Page 6, clause 7. Insert after line 34:

permitted plant—see section 44.

No. 2 **Permitted plants and unlisted plants**

Page 7, clause 7. Insert after line 20:

unlisted plant—see section 45.

No. 3 **Permitted plants and unlisted plants**

Page 13, clause 27. Insert after line 9:

- (4) A permitted plant is not prohibited matter throughout the State (despite anything to the contrary in Part 1 of Schedule 2). However, a permitted plant may be prohibited matter in a part of the State.

No. 4 **Permitted plants and unlisted plants**

Page 16. Insert after line 31:

Part 5 Permitted plants and unlisted plants

44 What is a permitted plant

- (1) A plant described in Schedule 3 is a permitted plant.
(2) The regulations may amend Schedule 3 by inserting, altering or omitting any items or descriptions in that Schedule.

45 What is an unlisted plant

Any living plant or seed of a plant that is not a permitted plant is an unlisted plant.

46 Sale of unlisted plant

- (1) A person who sells any unlisted plant is guilty of an offence.
(2) An offence against this section is a category 1 offence if the offence is committed intentionally or recklessly.

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- (3) In any other case, the offence is a category 2 offence.
 - (4) This section does not take effect until the date that is 2 years after the date of commencement of section 44.

No. 5 **Environmental risks**

Page 27. Insert after line 29:

76 Control orders can be made by Chief Executive of Office of Environment and Heritage

- (1) The Chief Executive of the Office of Environment and Heritage (the *Chief Executive*) may exercise any of the following functions of the Secretary under this Part if the Chief Executive considers it necessary to exercise that function because of a biosecurity risk that is primarily an environmental risk:
 - (a) the function of making a control order,
 - (b) the function of amending or revoking a control order.
- (2) The Chief Executive may amend or revoke a control order only if the control order is made by the Chief Executive under the power conferred by this section.
- (3) The Secretary cannot amend or revoke a control order made by the Chief Executive under the power conferred by this section.
- (4) A reference in this Act to the Secretary, in connection with a function that may be exercised by the Chief Executive under this section, is taken to include a reference to the Chief Executive.

No. 6 **Advisory committees**

Page 123. Insert after line 35:

Division 4 Advisory committees

369 Establishment of advisory committees

The Minister may from time to time establish advisory committees and dissolve any such advisory committee.

370 Functions of advisory committees

- (1) An advisory committee is to assist the Minister, the Secretary and any other person nominated by the Minister in exercising their functions under this Act.
- (2) An advisory committee has such other functions relating to the administration of this Act as the Minister determines.

371 Membership and procedure of advisory committees

- (1) An advisory committee is to consist of such members as the Minister determines who are to represent a range of interests and expertise appropriate to the functions of the committee.
- (2) Except as otherwise directed by the Minister, an advisory committee is to regulate its own procedures for the calling of meetings and the conduct of its business.

372 Terms of office

Subject to this Division, a member of an advisory committee holds office for such period as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

373 Remuneration

A member of an advisory committee is entitled to receive such remuneration (including travelling and subsistence allowances) for attending meetings and transacting the business of the committee as the Minister may from time to time determine in respect of the member.

374 Vacancy in office of member

- (1) The office of a member of an advisory committee becomes vacant if the member:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (e) becomes a mentally incapacitated person, or
 - (f) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
 - (g) is absent from 4 consecutive meetings of the advisory committee of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the advisory committee or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the advisory committee from having been absent from those meetings, or
 - (h) is removed from office under this section.
- (2) The Minister may remove a member of an advisory committee from office at any time.
- (3) If the office of a member of an advisory committee becomes vacant, a person may, subject to this Act, be appointed to fill the vacancy.

375 Effect of certain other Acts

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to a member of an advisory committee.
- (2) If by or under any Act provision is made:
 - (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,the provision does not operate to disqualify the person from holding that office and also the office of a member of an advisory committee or from accepting and retaining any remuneration payable to the person under this Act as a member of an advisory committee.
- (3) The office of a member of an advisory committee is not, for the purpose of any Act, an office or place of profit under the Crown.

No. 7 **Environmental risks**

Page 124. Insert after line 34:

371 Certain functions can be exercised by Environment Minister

- (1) The Minister administering the *Protection of the Environment Operations Act 1997* may exercise the following functions of the Minister administering this Act if the Minister considers it necessary to exercise any such function because of a biosecurity risk that is primarily an environmental risk:
 - (a) any function of the Minister in connection with the making of any regulation that imposes, amends or revokes a mandatory measure under Part 3,
 - (b) any function of the Minister in connection with the making of any regulation that inserts, alters or omits any item or description in Schedule 2 (Prohibited matter),
 - (c) any function of the Minister in connection with the making of any biosecurity zone regulation.
- (2) A reference in this Act to the Minister, in connection with a function referred to in this section, is taken to include a reference to the Minister administering the *Protection of the Environment Operations Act 1997*.

No. 8 **Advisory committees**

Page 126, clause 373. Insert after line 25:

- (f) a member of an advisory committee established under Division 4 of Part 22, or

No. 9 **Permitted plants and unlisted plants**

Page 150. Insert after Schedule 2:

Schedule 3 Permitted plants

(Section 44)