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AgForce Submission
Biosecurity Bill 2013



BIOSECURITY BILL 2013

SUBMISSION

to

Agriculture, Resources and Environment Committee

Email: arec@parliament.qld.gov.au

AgForce Queensland Industrial Union of Employers

President: Mr Ian Burnett

Address: PO Box 13186, North Bank Plaza, George St,
Brisbane QLD 4003

Phone: 07 3236 3100

Contact Name: Marie Vitelli, Policy Officer

Email: president@agforceqld.org.au

Introduction

AgForce Queensland established in 1999 as a peak industry group representing beef, sheep, wool and grain broadacre producers in Queensland, Australia. AgForce represents members who collectively manage over half of Queensland and exists to ensure the long term growth, viability, competitiveness and profitability of these industries. Queensland producers generate \$14 billion per annum in production with one in eight jobs in the Queensland workforce either partially or entirely supported by the agricultural supply chain.

Biosecurity, including the impact and costs of pest and weed management, are an ongoing major concern to primary producers. The risk of outbreaks of prohibited biosecurity matter such as Foot and Mouth Disease (FMD) would cripple our red meat industry. AgForce Queensland welcomes the timely review of various Acts dealing with biosecurity and release of the updated Biosecurity Bill 2013 which optimises responses to new and existing biosecurity incursions.

AgForce Queensland offers the following suggestions in response to the Agriculture, Resources and Environment Committee call for submissions to the *Biosecurity Bill 2013*.

Naming of the Bill

Recommend that a unique name is assigned to the Queensland Government *Biosecurity Bill 2013* to avoid confusion with the currently lapsed Australian Government *Biosecurity Bill 2012 [2013]*.

Co-managing national and state biosecurity emergency zones

Consider how national and state biosecurity emergency zones will integrate, overlap or be managed concurrently or independently for biosecurity matters of national and state significance. For example, how will a national outbreak of low priority on a state border be managed alongside a nearby Queensland outbreak of high priority? Historically, Queensland has the highest incidence of new biosecurity incursions of all Australian states and territories. It is therefore realistic to assume that in the future there could be more than one state and/ or national biosecurity emergency response in action concurrently.

There needs to be similarities in time limits for movement control orders (3 months) and biosecurity emergency orders (21 days) between state and national biosecurity responses.

Border protection from biosecurity risks

“The Bill provides the chief executive, local government and invasive animal boards with powers to make surveillance programs and prevention and control programs. The purpose of these programs is to take measures to prevent, control, eradicate or manage biosecurity risks”.

The Bill lacks clarity about:-

- (a) Who manages border protection along coastal waters and state boundaries;
- (b) Management of undetected or non-declared biosecurity risks once humans or things have passed through national border quarantine procedures and are now traversing Queensland.
- (c) Managing biosecurity risks from increased frequency of business tourists and regular fly-ins from overseas employees to Queensland mining sites and regional Queensland which are in close proximity to agricultural activities.
- (d) Internet purchases of live material that may harbour biosecurity matter, which are introduced into Queensland and not initially detected by Australian Government quarantine.

AgForce requests that this detail be provided prior to the implementation of the Bill.

Government implementation

The development of the associated Regulations and Codes of Practice need collaborative discussion and technical input as proposed through the **Biosecurity Regulations Reference Group (BRRG)**. It is imperative that local government in addition to peak industry bodies are represented in this new group.

The Bill’s proposed implementation costs of \$0.6 million need to stipulate this is the proposed cost to Queensland Government. There would be significant additional costs to local government to enact the Act. Compliance with reporting obligations of prohibited matter (**Clause 36**) will require a costly, intense and effective communication plan and training program across a range of industries, keepers of animals and plants, local government, authorised officers and other stakeholders. Other additional costs are likely to be associated with the awareness of the requirement to register all biosecurity entities with one or more designated animals and regularly updating this database.

Itemised feedback on specific clauses within the Biosecurity Bill 2013 is provided here:-

Clause 4 – Purposes of Act

Insert 4 (1) (d) Align responses to biosecurity risks with national biosecurity agreements such as Australian Emergency Animal Health Response Deed and the Australian Emergency Plant Pest Response Deed.

Clause 9 - Relationship with particular Acts

There is uncertainty in the event of an outbreak of a prohibited biosecurity matter which also affects or has alternate native hosts (plant or animal) as to what Act has precedence. Who has the power to enact control measures for a biosecurity obligation versus requirements for preserving native plants and animals under the *Nature Conservation Act 1992 (Qld)* and *Vegetation Management Framework Amendment Act 2013 (Qld)*.

Clause 17 – What is a carrier

Include “water” (i.e. rain water, ground water and watercourses) and “wind” within the definition of a carrier which is capable of moving biosecurity matter.

Clause 18 – What is a contaminant

Delete “dioxin” as an example of an environmental contaminant for a biosecurity consideration. Most dioxin emissions are a natural by-product of forest fires and bush fires and are found in trace concentrations in the air, water and soil, in all areas around the world. Dioxins are also generated through human activities such as manufacturing, incineration and exhaust emissions which have declined by greater than 90% through regulation of these activities.

Clause 21 – Restricted matter and Clause 43 – Distributing or disposing of Category 3 matter

The purpose of category numbers (1 to 7) assigned to Restricted Matter in Schedule 2 is not clear. Category numbers 4, 5 and 6 require further explanation. Category 3 includes productivity and environmental weeds and pests, some that are localised and some that are widespread. A wide range of cost-effective management “disposal” options need to be “prescribed” within the regulations for the vast range of Category 3 weeds and pests.

Clause 43 has the intent of minimising weed seed spread from vehicles, machinery, stock, humans and things. However this clause will be very difficult to achieve and check for compliance. The maximum penalty for distribution of Category 3 weed seeds such as parthenium weed, giant rats tail grass, fireweed and prickly acacia is 500 penalty units. Will restricted matter permits (**Clause 212**) prescribed in regulations include Voluntary Weed Hygiene Declarations, Washdown Certificates and other permits? What other distribution or disposal methods will be considered within the regulations to ensure realistic compliance with **Clause 43**?

Who has the authority to impose a penalty on a person with an infested thing with category 3 restricted matter? How will recreational vehicles, service vehicles for pipeline corridors, road trains be checked for compliance? Who has the right to inform an authorised officer that an offence has occurred? What evidence is required to demonstrate non-compliance with **Clause 43**?

Stored grain quality standards have tolerance levels for foreign seed contaminant such as eight (8) parthenium seeds/ 0.5L samples of sorghum seed. How does the Biosecurity Bill 2013 integrate with national and/ or state industry standards for certain commodities such as stored grain, pasture seeds and fodder?

Clause 36 – Reporting presence of prohibited matter

Reporting obligation of prohibited matter depends on a person's awareness of the symptoms and/ or identification of prohibited matter. This is a difficult task considering the number of biosecurity matters listed in Schedule 1 and will depend on effective communication, training and awareness.

Clause 47 – Notifiable incidents

At times, it may be difficult to distinguish between symptoms from stock consuming toxic plants to the presence of prohibited, restricted or unknown biosecurity matter. In these cases, it should not be an offence of 1000 penalty units, if the keeper or owner of the animal is genuinely not aware of the cause or difference in symptoms.

Clause 48 – Main function of local government

The requirement for local government to ensure compliance with this Act is onerous on this already under-resourced sector of local communities. This requires community awareness, surveillance and compliance measures across a wide range of land uses and commodities, transport corridors and

including urban residents and tourists/ visitors to the each local government area. Many local government areas do not have a dedicated staff member for biosecurity matters.

It is imperative that sufficient funding and resources are provided to local governments for successful management of invasive biosecurity matter and compliance with the requirements of the *Biosecurity Bill 2013*. Additional resources are required for local governments to manage common areas such as reserves and fenced stock routes. **Clause 59** stipulates that the chief executive must consult with relevant local governments about suitability and priorities of activities before paying funds from the Land Protection Fund (refer **Clause 57**).

AgForce Queensland supports local governments developing local law for regional invasive pests and weeds, if required. Local government needs to be able to ensure compliance with managing any pests declared under local law and the Biosecurity Bill 2013 needs to support these additional efforts in managing biosecurity risks.

Clause 70 – Appointment of directors – Invasive animal barrier fencing

An example is provided that the regulation may require a person to have legal or business qualification to be appointed.

This may restrict landholder representation. Many landholders will have the necessary experience and understanding of the reasons for and management guidelines of a barrier fence for wild dogs and/or rabbits.

Excluding landholder representation risks losing a great deal of industry knowledge.

Clause 101 – Powers of barrier fence employees

The *Bill* states that employees have the power to give a person a notice to remedy damage to the barrier fence for which a person was responsible.

It is not considered appropriate that a general barrier fence maintenance employee provide such notice, rather this task should be completed by the Manager at the very least, if not by the direction of the Board itself.

Clause 106 – Tabling and inspection of documents adopted in codes of practice

Codes of practice and their provisions need to be accessible regionally. The *Bill* stipulates that the numerous codes of practice will be available at the “department’s head office”.

AgForce recommend providing a list of codes of practice on the departmental website.

Clause 141 – What is a registrable biosecurity entity

Within the current definitions, a registrable biosecurity entity can be a place with a contaminant of weed seeds which are above the threshold amount for a designated biosecurity matter prescribed under the regulation.

Is there scope for the Biosecurity Bill 2013 to also consider future registration of entities dealing with aquatic biosecurity risks or plant disease biosecurity risks?

Does “*person*” include company, trust or other commercial entity that may own and manage designated animals at one or more places?

Clause 155 - Term of registration

Recommend that for commercial entities such as primary producers (as defined by the Australian Tax Office), that the term of registration be continuous or until advised of a change in ownership.

Clause 156 – Renewal of registration

The prescribed fee must not be prohibitive for all registrable entities.

Clause 157 – Keeping of bees in a hive

Does this clause and Division 2 pertain to introduced honey bees and native bees? There is increasing interest in native bee hives as pollinators.

Clause 161 – Inclusion of restricted places in biosecurity register

How does this database of restricted places link to the existing contaminated land register? Is there a duplication of effort across government departments? For example, all the sites of old arsenic cattle dips are held on the contaminated land register.

Clause 171 – Correction and updating of biosecurity register for registered biosecurity entities

Clause 171 enables the chief executive [*suggest insert “or nominated officer”*] to correct the designated details or biosecurity risk details

Clause 173 – Taking copies of biosecurity register

Under what purpose can a person who buys the biosecurity register use the information? How much personal information for each entity would be provided by the department to any person purchasing a copy of the register?

Clause 180 – Exemptions from approved device requirement

Seek clarification for approved devices for horses (designated animal), especially in relation to stock horses used for contract mustering purposes and wild horses (brumbies) that are mustered and transported. Would these instances require a travel approval from the chief executive if a brand or tattoo did not mark the designated animal?

Clauses 259 to 277—Entry to places by an authorised officer, with or without warrant or consent

The *Bill* needs to outline if the State government is the entity responsible for the occupational health and safety and personal liability of an inspector/ authorised officer who enters a place that requires mandatory site induction (eg. mining site, coal seam gas pipeline corridor, piggery with hygiene pre-entry requirements, Department of Defence training areas, etc).

Clause 294 – Aerial control measures

294 (4) – The authorised officer should make reasonable attempts to advise neighbours of the place about the aerial control measure if the control measure involves aerial distribution of an agricultural chemical (especially if there is risk of spray drift to adjoining areas).

294 (6) - Definition of **aerial control measure for biosecurity matter** to also include:-

- (c) aerial shooting or baiting to control the biosecurity matter

Clause 348 – No compensation for consequential loss

Please note there is an error in the Explanatory Notes (Clause 345) on page 93 which contradicts **Clause 348** in the *Biosecurity Bill*. **Clause 345**, dot point 4 in the Explanatory Notes should be deleted as it refers to “consequential loss” under statutory compensation. This error leads to confusion when interpreting the *Bill*.

Schedule 1 Prohibited matter and Schedule 2 Restricted Matter

Include scientific name (at least to genus and species level, if known) as well as common name.

What is the process to amend Schedule 1 and 2 which are included in the *Bill*? Would an amendment be easier if these two Schedules were included in the proposed regulations instead of the *Bill*?

For example, if other organisms such as exotic cyanobacteria were ever considered as biosecurity risks, how easy will it be to amend the legislative Biosecurity Bill 2013 to include a new biosecurity risk?

Why is African love grass *Eragrostis curvula* not included in Schedule 2- Part 2 – Restricted matter – invasive biosecurity matter?

Schedule 5 Dictionary

Recommend the following terms are included and defined in the dictionary:-

Chief executive - is this the Director General, Chief Veterinary Officer / Chief Plant Health Officer/ Chief Biosecurity Officer or another position within government?

Endemic – native, naturalised or restricted to a particular place (**Clause 4** – “Purpose of the Act is to manage risks associated with emerging, *endemic* and exotic pests and diseases that impact on....”)

Further information

If you require to discuss any points raised in this submission, please contact AgForce President Ian Burnett or Policy Officer Marie Vitelli on phone 07 3236 3100 or email president@agforceqld.org.au.