

Biosecurity and Agriculture Management Regulations Amendment Regulations 2019

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Biosecurity and Agriculture Management Regulations Amendment Regulations 2019

Made by the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations are the *Biosecurity and Agriculture Management Regulations Amendment Regulations 2019*.

2. Commencement

These regulations come into operation as follows —

- (a) Part 1 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

**Part 2 — Biosecurity and Agriculture Management
Regulations 2013 amended**

3. Regulations amended

This Part amends the *Biosecurity and Agriculture Management Regulations 2013*.

4. Regulation 3 amended

In regulation 3 insert in alphabetical order:

bee means a bee of the species *Apis mellifera*;

5. Regulation 7 amended

Delete regulation 7(2)(b) and insert:

- (b) *Restricted keeping*: if in the opinion of the Minister keeping the declared pest in an area or part of an area for which it is declared should be restricted to keeping —
 - (i) under the authority of a permit; or
 - (ii) in an approved quarantine facility in accordance with the terms and conditions set out in the approval of the quarantine facility;

6. Regulation 8 amended

(1) Delete regulation 8(2)(b) and insert:

- (b) *Restricted keeping*: if in the opinion of the Minister keeping the prohibited organism in the

State or a part of the State should be restricted to keeping —

- (i) under the authority of a permit; or
- (ii) in an approved quarantine facility in accordance with the terms and conditions set out in the approval of the quarantine facility.

- (2) In regulation 8(6)(b) and (7) delete “website.” and insert:

electronic site.

7. Regulations 8A and 8B inserted

At the end of Part 1 insert:

8A. Movement, introduction and supply requirements for purposes of r. 16, 17 and 25

For the purposes of regulation 16(2), 17(2) or 25(2), the Director General may determine requirements in relation to the movement, introduction or supply of a potential carrier or class of potential carrier and publish those requirements on the department’s electronic site.

8B. Organisms prescribed for s. 24

For the purposes of section 24(1)(c) and (3)(c), each organism that is a declared pest for the relevant area of the State is prescribed.

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8. Regulation 11 amended

In regulation 11(3)(b) and (4) delete “website.” and insert:

electronic site.

9. Regulation 16 amended

(1) In regulation 16:

(a) delete “A person” and insert:

(1) A person

(b) delete “category 1 declared pest or a category 2” (each occurrence).

(2) In regulation 16 delete the Penalty and insert:

Penalty for this subregulation: a fine of \$10 000.

(3) At the end of regulation 16 insert:

(2) A person other than an inspector must not, unless the person has been given an authorisation or direction to do so by an inspector, move a potential carrier of an organism that is a declared pest for a DP area within that area if the action is contrary to any requirements determined under regulation 8A relating to the movement of the potential carrier.

Penalty for this subregulation: a fine of \$10 000.

10. Regulation 17 amended

(1) In regulation 17 delete “A person” and insert:

(1) A person

(2) At the end of regulation 17 insert:

(2) A person other than an inspector must not, unless the person has been given an authorisation or direction to do so by an inspector, bring a potential carrier of an organism that is a declared pest for a DP area into that area from another area of the State if the action is contrary to any requirements determined under regulation 8A relating to the introduction of the potential carrier.

Note for this subregulation:

A person who contravenes this subregulation commits an offence under section 24(2).

Notes:

1. The note at the end of regulation 17 is to be deleted.
2. At the end of regulation 17(1) the following note is to be inserted:

Note for this subregulation:

A person who contravenes this subregulation commits an offence under section 24(2).

11. Regulation 18 deleted

Delete regulation 18.

12. Regulation 19 amended

(1) In regulation 19(1) delete the definition of *bee*.

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amended

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- (2) In regulation 19(2) in the Table Part 1 delete “From a place in the SHB free area to a place in the SHB infested area.”.

13. Regulations 20 and 21 deleted

Delete regulations 20 and 21.

14. Regulation 25 amended

- (1) In regulation 25:

(a) delete “A person” and insert:

(1) A person

(b) in paragraph (b) delete “area; or” and insert:

area,

(c) delete paragraphs (c) and (d).

- (2) At the end of regulation 25 insert:

(2) A person other than an inspector must not, unless the person has been given an authorisation or direction to do so by an inspector, supply to a person in a DP area a potential carrier of an organism that is a declared pest for the area if the action is contrary to any requirements determined under regulation 8A relating to the supply of the potential carrier.

Note for this subregulation:

A person who contravenes this subregulation commits an offence under section 24(4).

Notes:

1. The note at the end of regulation 25 is to be deleted.

2. At the end of regulation 25(1) the following note is to be inserted:

Note for this subregulation:

A person who contravenes this subregulation commits an offence under section 24(4).

15. Regulation 27 amended

In regulation 27(2)(b) delete “website.” and insert:

electronic site.

16. Regulation 33 amended

In regulation 33(2)(b) delete “website.” and insert:

electronic site.

17. Regulation 35 amended

In regulation 35(2)(b) and (3) delete “website.” and insert:

electronic site.

18. Regulation 37 amended

In regulation 37(3)(a)(ii) delete “website;” and insert:

electronic site;

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19. Regulation 38 amended

Delete regulation 38(1), (2) and (3) and insert:

- (1) An inspector may direct a person to test an organism or potential carrier for the presence of declared pests or unlisted organisms at a place and in a manner specified in the direction.
- (2) An inspector may direct a person to treat an organism or potential carrier for the presence of declared pests or unlisted organisms at a place and in a manner specified in the direction.

20. Regulation 39A inserted

After regulation 39 insert:

39A. Removal of organism or potential carrier from inspection point or other place

- (1) Subregulation (2) applies if an organism or potential carrier is —
 - (a) presented for inspection at an inspection point under regulation 79(5) or taken to another place in accordance with a written direction referred to in regulation 79(3)(a)(ii); or
 - (b) taken or removed to, or kept or left at, an inspection point, quarantine facility or any other place under a direction of an inspector.

- (2) If this subregulation applies, a person must not remove the organism or potential carrier from the inspection point, quarantine facility or other place, unless the person has been given an authorisation or direction to do so by an inspector.

Penalty for this subregulation: a fine of \$20 000.

21. Regulation 45B amended

In regulation 45B(2) delete “website.” and insert:

electronic site.

22. Regulation 60 amended

In regulation 60(2)(c) delete “website.” and insert:

electronic site.

23. Regulation 71 amended

In regulation 71(5)(b) delete “website.” and insert:

electronic site.

24. Regulation 72 amended

- (1) In regulation 72(1) in the definition of *import requirement* delete “published” and insert:

determined

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- (2) In regulation 72(2):
- (a) in paragraph (a)(iii) delete “directed;” and insert:

directed; or
 - (b) after paragraph (a)(iii) insert:
 - (iv) is, or is of a class of prescribed potential carrier that is, the subject of an exemption under regulation 79(4) and satisfies the import requirements, if any, that apply to a carrier of that kind;
- (3) Delete regulation 72(4) and insert:
- (4) The Director General may determine import requirements for the purposes of subregulation (2)(a)(ii) and publish those requirements on the department’s electronic site.
- (4) In regulation 72(5) delete “published” and insert:
- determined

25. Regulation 73 amended

- (1) In regulation 73(3)(b) delete “website.” and insert:

electronic site.

(2) Delete regulation 73(4) and insert:

(4) A person must not import a permitted organism assigned to the category “permit required” unless the organism is imported as authorised by, and in accordance with the terms and conditions of, an import permit and these regulations.

Penalty for this subregulation: a fine of \$10 000.

26. Regulation 75 amended

(1) In regulation 75(3) and (4) delete “that” and insert:

than

(2) In regulation 75(4) delete the Penalty and insert:

Penalty for this subregulation: a fine of \$15 000.

(3) After regulation 75(4) insert:

(5) A notice required under subregulation (3) or (4) must be given in an approved manner.

27. Regulation 77 amended

In regulation 77(c) delete “website” and insert:

electronic site

r. 28

28. Regulation 79 amended

- (1) In regulation 79(3):
- (a) in paragraph (a)(i) after “organism” insert:

or prescribed potential carrier
 - (b) in paragraph (a)(i) delete “subregulation (4); or” and insert:

subregulation (5) or (6); or
 - (c) in paragraph (a)(ii) delete “subregulation (4);” and insert:

subregulation (5) or (6);
 - (d) delete paragraph (b)(i) and insert:
 - (i) gives the Director General, not later than 1 working day before the expected time of importation, notice in an approved manner of the time and place of entry into the State of the organism or prescribed potential carrier; and
 - (e) in paragraph (c)(ii) delete “required.” and insert:

required;

(f) after paragraph (c) insert:

or

(d) to an organism or prescribed potential carrier or class of organism or prescribed potential carrier specified in a notice published under subregulation (4).

(2) Delete regulation 79(4) and insert:

- (4) The Director General may, by notice published on the department's electronic site, exempt an organism or prescribed potential carrier or class of organism or prescribed potential carrier from the operation of subregulation (5).
- (5) For the purposes of section 21(3)(a), a person who imports an organism or prescribed potential carrier to which this regulation applies must present the organism or carrier for inspection by an inspector at the nearest inspection point.

Note for this subregulation:

The penalty for failing to present an organism or prescribed potential carrier for inspection in accordance with the regulations is set out in section 21(3).

- (6) A person who is required to present an organism or prescribed potential carrier for inspection under subregulation (5) must —
- (a) ensure that the organism or carrier is kept secure until it is inspected by an inspector at the nearest inspection point; and

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- (b) as soon as possible after the importation, take the organism or carrier by the shortest possible route to the nearest inspection point.

Penalty for this subregulation: a fine of \$20 000.

Note:

The note at the end of regulation 79 is to be deleted.

29. Regulation 80 deleted

Delete regulation 80.

30. Regulation 86 amended

- (1) Delete regulation 86(1) and (2) and insert:

- (1) The Director General may give a direction under this regulation if the Director General is satisfied that —
 - (a) either —
 - (i) plants that are, or have been, raised or used in the course of an agricultural activity have been abandoned or neglected or are otherwise untended; or
 - (ii) bees or apiaries are, or have been, abandoned or neglected or are otherwise untended;
 - and
 - (b) if left untended, the plants, bees or apiaries are likely to spread a declared pest or an unlisted organism.

- (2) The Director General may direct the owner or person in control of a place where neglected, abandoned or otherwise untended plants, bees or apiaries are found —
- (a) to destroy or otherwise dispose of the plants, bees or apiaries within a period and by a means specified in the direction; or
 - (b) in the case of bees — to transfer the bees within a period specified in the direction to a hive of a design specified in the direction.

(2) After regulation 86(6) insert:

- (7) A person given a direction under subregulation (2) must comply with the direction.

Penalty for this subregulation: a fine of \$10 000.

Note: The heading to amended regulation 86 is to read:

Directions about untended plants, bees or apiaries

31. Regulation 86A inserted

After regulation 86 insert:

86A. Bees to be kept in hives of approved design

- (1) A person who keeps bees must keep them in a hive of an approved design.

Penalty for this subregulation: a fine of \$10 000.

- (2) Subregulation (1) does not apply to a person who keeps bees in a cage or ventilated box without frames for the purpose of —

- (a) moving the bees from one place to another; or

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- (b) moving the bees in accordance with the terms and conditions of a permit held by that person.

32. Regulation 126 amended

In regulation 126 delete “reduce,” and insert:

reduce or refund,

Consultation Draft

**Part 3 — Biosecurity and Agriculture Management
(Infringement Notices) Regulations 2013 amended**

33. Regulations amended

This Part amends the *Biosecurity and Agriculture Management (Infringement Notices) Regulations 2013*.

34. Schedule 1 amended

In Schedule 1 Division 2:

(a) delete the item relating to regulation 79(4) and insert:

r. 79(6)	Failing to comply with requirements relating to presentation of organism or carrier for inspection	400
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(b) delete the item relating to regulation 80;

(c) after the item relating to regulation 85(2) insert:

r. 86(7)	Failing to comply with direction about untended plants, bees or apiaries	200
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r. 86A(1)	Failing to keep bees in hive of approved design	200
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Clerk of the Executive Council.