

1996

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

## Quarantine Amendment Bill (No. 2) 1996

EXPLANATORY MEMORANDUM

*Circulated by Mr Fitzgibbon*



## **Quarantine Amendment Bill (No. 2) 1996**

### **Outline**

The purpose of the Bill is to implement the first recommendation of the Senate Rural and Regional Affairs and Transport Legislation Committee in its report on the importation of cooked chicken meat into Australia. This recommendation advocated the amendment of the Quarantine Act to place final responsibility for quarantine decisions in the hands of the Minister and/or the Government. The Bill places that responsibility on the Minister.

In considering the Bill Members should be aware that under the Administrative Arrangement Order, the Quarantine Act is administered by two portfolio Ministers, namely

the Minister for Human Services and Health who administers the Act in relation to human quarantine; and

the Minister for Primary Industries and Energy who administers the Act in relation to animal, plant and general quarantine

### **Financial Impact**

The Bill will have no major impact on Government expenditure. Minor compliance costs of providing monthly reports to the relevant Minister will be absorbed in the budgets of the Departments of Human Services and Health and Primary Industries and Energy.

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## Notes on Clauses

### Clause 1(Short title) and Clause 2 (Commencement)

These clauses need no further explanation.

### Clause 3     Schedule

This clause provides for the *Quarantine Act 1908* to be amended as set out in the Schedule.

### Schedule 1—Amendments of the Quarantine Act 1908

#### Item 1

This item inserts a definition of *food* into the Act. It proposes that *food*, for the purposes of the Quarantine Act, has the same meaning as *food* has in the *National Food Authority Act 1991*.

In that Act *food* is defined as including:

- (a) any substance or thing of a kind used or capable of being used as food or drink by human beings; or
- (b) any substance or thing of a kind used or capable of being used as an ingredient or additive in, or substance used in the preparation of, a substance or thing referred to in paragraph (a); or
- (c) such other substance or thing as is prescribed;

whether or not it is in a condition fit for human consumption, but does not include a therapeutic good within the meaning of the *Therapeutic Goods Act 1989*.

## Item 2

This item inserts a definition of *protocol* into the Act.

## Items 3, 4 and 5

These items:

insert a new section 7A in the Act; and

- repeal existing subsections 8A(1) and 8B(1) and replace them with new provisions.

These changes give effect to the first recommendation of the Senate Rural and Regional Affairs and Transport Legislation Committee in its report on the importation of cooked chicken meat into Australia. That recommendation was that the Quarantine Act be amended to place final responsibility for quarantine decisions in the hands of the Minister and/or Government.

The existing provisions state that there shall be a Director of Human Quarantine and a Director of Animal and Plant Quarantine who shall, **under the Minister** (emphasis added), be charged with the execution of [the] Act. They have remained, in essence, unchanged in the Act since 1912 when the Parliament first legislated in detail on the form the Commonwealth administration of quarantine was to take. It was said at the time that the provision was being inserted into the Quarantine Act to bring it into conformity with other measures such as the Patents Act. In the drafting style of the time, the provisions established the relationship of the the senior professional Commonwealth quarantine officer, that is, the Director, to the Minister with respect to the powers conferred by the Act.

Whatever the drafters in 1912 intended by the words “There shall be a Director . . . ., who shall, under the Minister, be charged with the execution of this Act, . . . .”, it is accepted today that ultimate responsibility for quarantine decisions relating to the importation of cooked chicken meat and other food products rests with the Director of Animal and Plant Quarantine, that is, the Secretary of the Department of Primary Industries and Energy or his delegate.

Items 3, 4 and 5 place the responsibility for the administration and execution of the Act unequivocally on the Minister and, with respect to both Human Quarantine and Animal and Plant Quarantine, provide for Directors in both subject areas who shall **assist** the Minister in the administration and execution of the Act in relation to their respective areas of quarantine.

The changes to be implemented by these items recognise that the Directors in the areas of quarantine for which they have responsibility will continue to make individual administrative decisions. The items therefore require the Directors to make a written report to the Minister each month on the work done under the Act in the preceding month in his or her area of quarantine administration.

## **Item 6**

The item is the key change to the present provisions proposed by the Bill.

It proposes to insert new sections 67AA and 67AB into the Quarantine Act.

Proposed section 67AA provides that no action can be taken to allow food to be imported into Australia from another country unless the Minister has approved an arrangement or protocol for the entry into Australia of food of that type from that country.

Proposed section 67AB requires that any actions taken by an officer to allow food to be imported into Australia must be consistent with the terms of any approval given by the Minister to allow food of that type to be imported from a particular country.



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