

1985

THE PARLIAMENT OF THE COMMONWEALTH  
OF AUSTRALIA

HOUSE OF REPRESENTATIVES

QUARANTINE AMENDMENT BILL 1985  
EXPLANATORY MEMORANDUM

(Circulated by authority of the  
Minister for Health and  
the Minister for Primary Industry)



## OUTLINE

The purpose of this Bill is to amend the Quarantine Act 1908 to provide for dual administration of the Act by two Ministers. In accordance with the Administrative Arrangements Order signed by the Governor-General on 13 December 1984, the Minister for Health administers sections 8A and 9 of the Quarantine Act and those parts that relate to human quarantine, and the Minister for Primary Industry administers those parts of the Quarantine Act that relate to animal and plant quarantine.

In place of the existing Director of Quarantine, the proposed amendment provides for two Directors of Quarantine - a Director of Human Quarantine and a Director of Animal and Plant Quarantine. Most other changes are consequential to the provision of the two Directors of Quarantine or are necessary to indentify certain provisions of the Act as applying to human quarantine only, or to animal or plant quarantine only.

The Bill also provides that the Directors of Quarantine may delegate their powers under the Quarantine Act.

The proposed amendment has no financial implications.

Clause 1 : Short title &c

This clause provides that the amending Act may be cited as the Quarantine Amendment Act 1985 and identifies the Quarantine Act 1908 as the Principal Act.

Clause 2 : Commencement

This clause provides that the Bill, after passage, is to come into operation on the day on which it receives the Royal Assent.

Clause 3: Scope of quarantine

This clause would amend section 4 of the Principal Act which spells out the limits and object of that Act. It replaces the word "man" with "human beings" to accord with the Government's policy of removing sexist language from legislation. The object of the Principal Act would then be to prevent "the introduction or spread of diseases or pests affecting human beings, animals or plants".

Clause 4 : Interpretation

This clause would amend section 5 of the Principal Act so as to define several terms for purposes of that Act.

"Chief Quarantine Officer" is defined to mean Chief Quarantine Officer (Human Quarantine), Chief Quarantine Officer (Animals) or Chief Quarantine Officer (Plants) depending on the context in which the expression is used.

"Director of Quarantine" is defined to mean Director of Human Quarantine or Director of Animal and Plant Quarantine, depending on the context in which the expression is used.

"Quarantine officer" is defined to mean a quarantine officer (human quarantine), quarantine officer (animals) or quarantine officer (plants), depending on the context in which the expression is used. This definition replaces the existing definition which provides only that "quarantine officer" means a quarantine officer appointed under the Act.

Clause 5 : Officers responsible for quarantine

Sub-clause 5(1) would repeal the existing sections 8A and 9 which provide for a Director of Quarantine, Chief Quarantine Officers and quarantine officers, and insert new sections 8A, 8B, 9 and 9AA to provide for two Directors of Quarantine, and corresponding Chief Quarantine Officers and quarantine officers.

New section 8A : Officers responsible for human quarantine

New sub-section 8A(1) provides that there is to be a Director of Human Quarantine who shall, under the Minister (currently the Minister for Health), be charged with the execution of the Act as it applies to human quarantine.

New sub-section 8A(2) provides that there are to be Chief Quarantine Officers (Human Quarantine) for such divisions of human quarantine as the Minister (for Health) determines.

New sub-section 8A(3) provides that Chief Quarantine Officers (Human Quarantine) are subject to the direction of the Director of Human Quarantine in the performance of their duties.

New sub-section 8A(4) provides that the Director of Human Quarantine has all the functions and powers of a Chief Quarantine Officer (Human Quarantine) and of a quarantine officer (human quarantine).

New sub-section 8A(5) provides that a Chief Quarantine Officer (Human Quarantine) has all the functions and powers of a quarantine officer (human quarantine). There is no provision corresponding to this proposed new sub-section in the existing section 8A, although it is clearly implied. The insertion of the new sub-section would remove any possible doubt on this point.

New sub-section 8A(6) provides that, in the performance of his duties, each quarantine officer (human quarantine) is subject to the direction of the Chief Quarantine Officer (Human Quarantine) for the division or divisions for which the quarantine officer is appointed.

New sub-section 8A(7) provides that, for the purpose of the new section 8A, any branch or subject of quarantine in relation to human beings and any territorial division or locality shall be a division of quarantine. This makes clear that a division of human quarantine must have two components:

- (i) either a branch or subject; and
- (ii) a territorial division or locality.

Under existing arrangements within the Department of Health there are two branches or subjects of quarantine in relation to human beings. These are known as general and treatment. These two branches or subjects of quarantine will be retained but not necessarily with the existing names. Quarantine officers appointed to the general division are concerned with the detection of diseases. Their duties include the inspection of ships and aeroplanes that arrive in Australia from overseas. Quarantine officers appointed to the treatment division are concerned with the medical treatment of persons subject to quarantine.

New Section 8B : Officers responsible for animal and plant quarantine

In summary this proposed section reflects, in respect of animal and plant quarantine, the provisions relating to human quarantine in the proposed new section 8A.

New sub-section 8B(1) provides that there is to be a Director of Animal and Plant Quarantine who, under the Minister (currently the Minister for Primary Industry), shall be charged with the execution of the Act as it applies to animal and plant quarantine.

New sub-section 8B(2) provides that there are to be Chief Quarantine Officers (Animals) and Chief Quarantine Officers (Plants) for such divisions of animal and plant quarantine as the Minister (for Primary Industry) determines.

New sub-section 8B(3) provides that Chief Quarantine Officers (Animals) and Chief Quarantine Officers (Plants) are subject to the direction of the Director of Animal and Plant Quarantine in the execution of their duties.

New sub-section 8B(4) provides that the Director of Animal and Plant Quarantine has all the functions and powers of a Chief Quarantine Officer (Animals), a Chief Quarantine Officer (Plants), a quarantine officer (animals) and a quarantine officer (plants).



New sub-section 8B(5) provides that a Chief Quarantine Officer (Animals) has all the functions and powers of a quarantine officer (animals) and a Chief Quarantine Officer (Plants) has all the functions and powers of a quarantine officer (plants). This relationship is clearly implied but not explicitly stated in the existing section 8A.

New sub-section 8B(6) provides that, in the performance of his duties, each quarantine officer (animals) or quarantine officer (plants) is subject to the directions of the Chief Quarantine Officer for the division or divisions of quarantine for which the quarantine officer is appointed.

New sub-section 8B(7) provides that for the purpose of the new section 8B, any branch or subject in relation to animals or plants and any territorial division or locality shall be a division of quarantine. This makes clear that a division of animal or plant quarantine must have two components:

- (i) either a branch or subject; and
- (ii) a territorial division or locality.

New section 9 : Appointment of officers responsible for  
human quarantine

New sub-section 9(1) provides that the Director of Human Quarantine and the Chief Quarantine Officers (Human Quarantine) shall be appointed by the Minister (for Health).

New sub-section 9(2) provides that the Director of Human Quarantine may appoint persons to be quarantine officers (human quarantine).

New sub-section 9(3) provides that a quarantine officer (human quarantine) shall be appointed only to a division or divisions of quarantine for which a Chief Quarantine Officer (Human Quarantine) has been appointed. This facilitates the operation of new sub-section 8A(6) which requires that a quarantine officer (human quarantine) is responsible, in the execution of his duty, directly to the Chief Quarantine Officer (Human Quarantine) for the division of quarantine for which both are appointed.

New section 9AA : Appointment of officers responsible for  
animal or plant quarantine

In summary, this proposed section reflects, in respect of animal and plant quarantine, the provisions relating to human quarantine in the proposed new section 9.

New sub-section 9AA(1) provides that the person who is the Secretary to the Department that deals with animal and plant quarantine (currently the Secretary to the Department of Primary Industry) shall be the Director of Animal and Plant Quarantine.

New sub-section 9AA(2) provides that Chief Quarantine Officers (Animals) and Chief Quarantine Officers (Plants) shall be appointed by the Minister (for Primary Industry).

New sub-section 9AA(3) provides that the Director of Animal and Plant Quarantine may appoint quarantine officers (animals) and quarantine officers (plants).

New sub-section 9AA(4) provides that a quarantine officer (animals) shall be appointed only to a division or divisions of quarantine for which a Chief Quarantine Officer (Animals) has been appointed and a quarantine officer (plants) shall be appointed only to a division or divisions of quarantine for which a Chief Quarantine Officer (Plants) has been appointed. This facilitates the operation of new sub-section 8B(6) which requires that each quarantine officer (animals) or quarantine officer (plants) is responsible directly to the Chief Quarantine Officer for the division of quarantine for which both are appointed.

Sub-clause 5(2) would provide that the present Director of Quarantine will be deemed to be the Director of Human Quarantine upon the commencement of the proposed Act without the need for a new appointment.

By virtue of proposed new sub-section 9AA(1), the Secretary to the Department of Primary Industry will be the Director of Animal and Plant Quarantine upon the commencement of the proposed Act.

Sub-clause 5(3) would provide for the continuity of the appointment of all Chief Quarantine Officers without the need for their reappointment upon the commencement of the proposed Act.

Sub-clause 5(4) would provide for the continuity of the appointment of all quarantine officers without the need for their reappointment upon the commencement of the proposed Act.

Clause 6 : Delegation by Director of Quarantine

This clause would insert a new section 10B into the Act to give to each Director of Quarantine the power to delegate his powers under the Quarantine Act. The Director of Quarantine has many powers under the Principal Act. The current practice is, in the absence of a specific delegation power in the Quarantine Act, for the Director of Quarantine to authorize other persons to exercise those powers. The insertion of the new section would not alter current operational practice, the only difference would be that persons would be delegated to exercise in their own name the powers of the Directors of Quarantine rather than authorized

to exercise the powers "for and on behalf of" the relevant Director. The proposed new section 10B corresponds to the delegation provision to be found in many Commonwealth Acts.

New sub-section 10B(1) provides that a Director of Quarantine may delegate, by instrument in writing, any of his powers under the Quarantine Act, or under the regulations or proclamations made under the Act. However, the power of delegation cannot be delegated.

New sub-section 10B(2) provides that when a delegate exercises delegated power, that power shall be deemed to have been exercised by the Director of Quarantine who delegated the power.

New sub-section 10B(3) provides that a Director of Quarantine may exercise any powers that have been delegated by that Director of Quarantine.

Clause 7 : Proclamation of ports of entry, etc.

This clause would make a consequential amendment to sub-section 13(2A) of the Principal Act. The existing sub-section 13(2A) provides that a proclamation which prohibits the importation into Australia or the Cocos Islands of any thing may provide that the Director of

Quarantine or a person authorized by the Director of Quarantine may grant a permit for importation. The proposed amendment changes references from "the Director of Quarantine" to "a Director of Quarantine" to take account of the fact that there is proposed to be two Directors of Quarantine.

Clause 8 : Permission to enter place other than first port  
of entry

This clause would make a consequential amendment to section 20AA of the Principal Act. Section 20AA provides that the Minister may give permission for a ship or aircraft from overseas to enter Australia or the Cocos Islands at a place other than a proclaimed first port of entry or a proclaimed landing place. The entry of ships and aircraft to Australia is primarily a human quarantine concern. The amendment would make it clear that only the Minister who is responsible for human quarantine can give permission under section 20AA.

Clause 9 : Health reports

This clause would make a consequential amendment to section 27 of the Principal Act. Existing section 27 requires the master of a ship, aircraft or installation arriving in Australia to deliver to a quarantine officer, a health

report in accordance with a form approved by the Director of Quarantine. The amendment would ensure that the report is delivered to a quarantine officer (human quarantine) and is in a form approved by the Director of Human Quarantine.

Clause 10 : Mooring of vessels from proclaimed places

This clause would make a consequential amendment to sub-section 32(1) of the Principal Act. That sub-section requires a vessel arriving at a port from a proclaimed place to be moored in accordance with the directions of a quarantine officer or as prescribed by regulations. The movement of vessels is primarily a human quarantine concern and the proposed amendment reflects that concern.

Clause 11 : Pratique

This clause would make a consequential amendment to section 33 of the Act. Section 33 is concerned with the granting of pratique (that is, quarantine clearance) to vessels. This is primarily a human quarantine concern and the proposed amendments to section 33 reflect that concern.

Clause 12 : Grant of pratique to installations

This clause would make a consequential amendment to section 33A of the Principal Act. Clause 33A is concerned with the

granting of pratique (that is, quarantine clearance) to installations. This is primarily a human quarantine concern and the proposed amendments to section 33A reflect that concern.

Clause 13 : Quarantine surveillance

This clause would made a consequential amendment to section 34 of the Principal Act. Section 34 is concerned with surveillance of a vessel where a quarantine officer is not satisfied that it is free from infection. This is primarily a human quarantine concern and the proposed amendments to section 34 reflect that concern.

Clause 14 : Order to perform quarantine

This clause would make a consequential amendment to sub-section 35(1A) of the Principal Act. Sub-section 35(1A) provides that a quarantine officer may order into quarantine any person who has been on board a ship, aircraft or installation from overseas, where that person does not satisfy the the quarantine officer that he has been successfully vaccinated or inoculated against any prescribed disease. This is a human quarantine concern and the proposed amendment to sub-section 35(1A) reflects that concern.



Clause 15 : Medical examination for possible pulmonary tuberculosis

This clause would made a consequential amendment to section 35AA of the Principal Act. Section 35AA provides that a quarantine officer who suspects that a non-citizen may be suffering from active pulmonary tuberculosis, the quarantine officer may require the non-citizen to undergo a medical examination. This is a human quarantine concern and the proposed amendment to section 35AA reflects that concern.

Clause 16 : Vessel or installation having communicable disease on board

This clause would make a consequential amendment to section 35A of the Principal Act. Section 35A prescribes measures to be taken where a vessel or installation has a case of a communicable infectious disease on board. This is a matter of human quarantine concern and the proposed amendments to section 35A reflect that concern.

Clause 17 : Power to permit vessel to proceed on voyage

This clause would make a consequential amendment to section 42 of the Principal Act. Section 42 provides that the Minister may permit a vessel, subject to conditions, to proceed on its voyage without performing quarantine. This

is primarily a matter of human quarantine concern and the proposed amendments to section 42 reflect that concern.

Clause 18 : Goods ordered into quarantine

This clause would make a consequential admendment to paragraph 48(6)(b) of the Principal Act. Paragraph 48(6)(b) provides for the owner of goods ordered into quarantine to give notice to the Director of Quarantine that the owner agrees to quarantine treatment of those goods even though the goods may be damaged. Paragraph 48(6)(b) may refer to goods of human quarantine concern, or of animal or plant quarantine concern. The proposed amendment to paragraph 48(6)(b) reflects the human quarantine, and the animal and plant quarantine concern.

Clause 19 : Liability of owner or agent for expenses of quarantine

This clause would make a consequential amendment to the second proviso of sub-section 59(2) of the Principal Act. That proviso provides that the Governor-General may direct that expenses of overland passengers arriving out of quarantine regulations may be borne by the Commonwealth. This is a matter of human quarantine concern and the proposed amendment to sub-section 59(2) reflects that concern.

Clause 20 : Powers of inspection

This clause would make a consequential amendment to sub-section 70(3) of the Principal Act. Sub-section 70(3) provides that the Director of Quarantine may authorize a person to board vessels in Australia and the Cocos Islands and inspect the vessel and all animals, plants and goods on board this vessel. Sub-section 70(3) applies to both human quarantine, and animal and plant quarantine. The proposed amendment will allow either Director of Quarantine to authorize persons to board and inspect a vessel.

Clause 21 : Inspection of installations

This clause would make a consequential amendment to sub-section 70AA(4) of the Principal Act. Sub-section 70AA(4) provides that the Director of Quarantine may authorize a person to board certain installations and inspect the installation and all animals, plants and goods on board the installation. Sub-section 70AA(4) applies to both human quarantine, and animal and plant quarantine. The proposed amendment will allow either Director of Quarantine to authorize persons to board and inspect an installation.

Clause 22 : Quarantine information to be given to travellers  
to Australia

This clause would make a consequential amendment to section 74AA of the Principal Act. Section 74AA provides that all persons on board a vessel travelling to Australia from a place outside Australia are required to be given notice of Australian quarantine laws. The form of that notice is to be approved by the Director of Quarantine. The amendment to section 74AA would provide that the notice is to be approved by both Directors of Quarantine.

Clause 23 : Vessels involved in certain offences

This clause would make a consequential amendment to sub-section 75A(1) of the Principal Act. Sub-section 75A(1) defines the term "approved person" for purposes of section 75A. Approved persons may board vessels suspected on reasonable grounds to be involved in certain specified offences. The Minister may authorize a person to be an approved person. The offences may involve human quarantine matters, or animal or plant quarantine matters. The amendment would provide that both Ministers who have responsibilities under the Act may authorize a person to be an approved person.

Clause 24 : Regulations

This clause would make a consequential amendment to sub-paragraph 87(1)(qa)(i) of the Principal Act.

Sub-paragraph 87(1)(qa)(i) refers to making of regulations to cover the storage, use, movement and disposal of goods which have been imported with the permission of the Director of Quarantine. This provision has application to both human quarantine, and animal and plant quarantine. The proposed amendment consequently changes the sub-paragraph to refer to a Director of Quarantine.

Clause 25 : Transitional interpretative provisions

Sub-clause 25(1) would provide that when expressions used in the Principal Act are used in regulations, proclamations or any other instruments already in force under the Principal Act they shall have the same meaning after the proposed amendments are made as they will have in the amended Principal Act.

Sub-clause 25(2) would provide that references to the Director of Quarantine in any regulations, proclamations or other instruments made under the Principal Act shall be construed to refer to a Director of Quarantine after the commencement of the proposed amending Act.

Sub-clause 25(3) would provide that, after the commencement of the proposed amending Act, nothing in sub-clauses 25(1) or 25(2) would prevent the making of regulations or proclamations or other instruments to amend regulations or proclamations or other instruments, that are already in force under the Principal Act.

Clause 26 : Transitional provisions relating to instruments

This clause would provide that any instrument made, granted, approved or given under the Principal Act before the commencement of the proposed amending Act continues in force as if made, granted, approved or given by the appropriate person under the Principal Act as amended by the proposed amending Act.

Sub-clause 26(1) refers to instruments made, granted, approved or given by a Minister.

Sub-clause 26(2) refers to instruments made, granted, approved or given by the Director of Quarantine.

Sub-clause 26(3) refers to instruments made, granted, approved or given by a Chief Quarantine Officer.

Sub-clause 26(4) refers to instruments made, granted, approved or given by quarantine officers.



