

Plant Health and Plant Products (Amendment) Bill

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EXPLANATORY MEMORANDUM

- Clause 1 states the purpose of the Bill.
- Clause 2 provides for commencement on a day or days to be proclaimed.
- Clause 3 amends the purpose provisions of the **Plant Health and Plant Products Act 1995** to reflect the cooperation between the States and Territories in the movement of plants or plant products.
- Clause 4 inserts definitions of "accredited person", "assurance certificate" and "corresponding law" and amends the definitions of "plant health certificate" and "plant health declaration".
- Clause 5 substitutes paragraph (c) of section 6(1). Section 6(1) currently provides that a person must not import prescribed material into Victoria unless the person has sent a copy of a plant health certificate or plant health declaration to the Secretary.

The new paragraph requires a plant health assurance certificate as an alternative to the plant health certificate or declaration and provides, together with existing regulation making powers, for the regulations to prescribe circumstances in which either of a declaration or certificate will be required.

Acceptance of a plant health assurance certificate is part of the implementation of the Interstate Certification Assurance (ICA) scheme, a national initiative by State plant regulatory authorities to introduce self-regulatory systems for interstate movement of produce so as to reduce costs to individual producers.

Clause 5 also provides for the details that must be included in the respective certificates and declaration.

Clause 6 Section 24 of the Act provides for the making of an order by the Minister to prohibit, restrict or impose conditions on the importation of plants, plant products, soil etc into Victoria where the Minister reasonably suspects an exotic disease or pest exists in Australia. The section provides that the order may require a plant health certificate or declaration to accompany the material on entry.

Clause 6 provides for the provision of a plant health assurance certificate as an alternative to the plant health declaration and plant health certificate and provides for the details which must be provided in the respective certificates and declaration which is consistent with the details required with the same certificates provided for under section 6(1).

The new section 24(3) allows for the order to limit the circumstances in which a plant health declaration may be made by reference to the plant or plant product etc, the area in which the plant or plant product was grown, produced or packed or from which it was consigned, or the person or class of persons authorised to issue plant health declarations.

Clause 7 allows for the regulations to prescribe standards for the reconditioning of used packages.

Clause 8 is a consequential amendment that substitutes the heading to Part 6.

Clause 9 provides for the accreditation by the Secretary of persons to issue plant health assurance certificates and the mechanism for gaining accreditation. This provision is part of the implementation of the ICA scheme which allows a business (grower) in an exporting State to be accredited by the local Department responsible for Agriculture to issue pest and disease treatment certification that complies with the plant health requirements of an importing State.

Clause 10 extends the powers of approved inspection services to audit persons accredited to issue assurance certificates.

Clause 11 Section 52 allows inspectors to enter and inspect a place that the inspector reasonably suspects is being kept for the "propagation, sale, storage, delivery, treatment, packaging or preparation for sale" of plants, plant products and used packages. Past

experience has demonstrated that this power may not permit entry and inspection of a place kept for the "growing" of plants, such as an orchard. Clause 11 inserts a reference to "growing" to ensure inspectors have this necessary inspection power.

Clause 12 Existing inspection powers allows an inspector to require a person to produce any document and once produced can examine or remove the document to make copies. However, where a request to produce documents is not complied with the inspector does not have the power to enter and search premises that the inspector suspect holds documents which could be used in evidence to show that the Act is not or has not been complied with.

Clause 52A provides for powers of entry and search and seizure of documents with a warrant.

Clause 13 provides for offences in respect of plant health certificates and declarations and for the release of specific information to corresponding state departments.

The new section 71A makes it an offence for any person who is not accredited to issue a plant health assurance certificate to issue or use such a certificate.

The new section 71B makes it an offence for a person to make false statements in a plant health assurance certificate, a plant health certificate or a plant health declaration.

The new section 71C makes it an offence to alter or permit to be altered a plant health certificate, plant health declaration or plant health assurance certificate unless the alteration is authorised by the person who made the declaration or who issued the respective certificate. In the case of the offence for altering a plant health assurance certificate an exemption is provided for in the instance where a consignment is split by a person authorised to split a consignment. This provision is consistent with operational procedures for the splitting of consignments made under the ICA scheme.

The new section 71D provides for the release of information to the other States and Territories, gained in the exercise of powers, functions or duties under the Act or under the national agreement which implements the ICA scheme.

Clause 14 makes various amendments to the regulation making powers.

Sub-clause (1) allows regulations to be made to prescribe requirements and procedures for the reconditioning of used packages. It also allows for the power to exempt, by regulation, any person, place, plant or plant product from the application of the Act to apply whether wholly or partially or subject to any condition, restriction or limitation.

Sub-clause (2) allows regulations to be made that limit or restrict the persons or class of persons who may issue a plant health declaration.