

Queensland



Subordinate Legislation 2002 No. 22

Plant Protection Act 1989

PLANT PROTECTION AMENDMENT REGULATION (No. 1) 2002

TABLE OF PROVISIONS

Section		Page
1	Short title	3
2	Commencement	3
3	Regulation amended	3
4	Amendment of s 18H (Definitions for pt 5A)	3
5	Amendment of s 18J (Objects of quarantine)	4
6	Amendment of pt 5A, div 3, hdg.	4
7	Insertion of new pt 5A, divs 4 and 5	4
	<i>Division 4—Pest control measures for restricted areas</i>	
	<i>Subdivision 1—Restricted areas</i>	
	18RA Declaration of restricted area	4
	<i>Subdivision 2—Movement restrictions</i>	
	18RB Owner must sign fire ant declaration when moving restricted item	5
	18RC Restriction on moving infested thing	6
	<i>Subdivision 3—Risk management plans</i>	
	18RD Business person must have risk management plan	6
	18RE Restrictions on business person moving thing associated with commercial activity	7
	18RF Requirements for risk management plans	7
	18RG Approval of risk management plan	8
	18RH DPI fire ant approved logo	8

	18RI	Term of approved risk management plan.	9
	18RJ	Audits.	9
		<i>Subdivision 4—Cancellation and suspension of approved risk management plan</i>	
	18RK	Grounds for cancellation and suspension	9
	18RL	Procedure for cancellation and suspension	9
		<i>Division 5—Introduction restrictions for tropical fire ants</i>	
	18RM	Live tropical fire ants and infested things	10
	18RN	Restricted items	11
8		Omission of pt 5B (Tropical fire ant)	11

1 Short title

This regulation may be cited as the *Plant Protection Amendment Regulation (No. 1) 2002*.

2 Commencement

This regulation commences on 1 March 2002.

3 Regulation amended

This regulation amends the *Plant Protection Regulation 1990*.

4 Amendment of s 18H (Definitions for pt 5A)

(1) Section 18H, definition “**fire ant**”—

omit.

(2) Section 18H—

insert—

“**approved disposal site**”, for a restricted area, means a site in or near the restricted area approved by an inspector for treatment and disposal of things infested or possibly infested with the fire ant.

“**approved risk management plan**” see section 18RD(2).

“**authorised person**”, at an approved disposal site, means a person authorised in writing by an inspector to receive fire ant declarations at the site from an owner.

“**business person**” see section 18RD(1).

“**fire ant**” means the following pests—

(a) tropical fire ant (*Solenopsis geminata* (Fabricius));

(b) red imported fire ant (*Solenopsis invicta* (Buren)).

“**fire ant declaration**” see section 18RB(2).

“**interstate inspector**” means an inspector for the department of another State that deals with matters relating to agriculture in the State.

“**restricted area**” means a restricted area declared under section 18RA.’

5 Amendment of s 18J (Objects of quarantine)

Section 18J—

insert—

‘(c) to prevent the introduction of the pest tropical fire ant into the State from another State.’.

6 Amendment of pt 5A, div 3, hdg

Part 5A, division 3, heading, after ‘*measures*’—

insert—

‘for pest quarantine area’.

7 Insertion of new pt 5A, divs 4 and 5

Part 5A—

insert—

‘Division 4—Pest control measures for restricted areas

‘Subdivision 1—Restricted areas

‘18RA Declaration of restricted area

‘(1) If the chief executive considers it necessary to prevent the fire ant spreading or to eradicate the fire ant in the State, the chief executive may—

- (a) declare an area in the pest quarantine area to be a restricted area; and
- (b) define the boundaries of the area so declared.

‘(2) The chief executive must give notice of the declaration—

- (a) in a newspaper published in Brisbane and circulating generally throughout the State; and
- (b) in another newspaper, if any, published at least 5 days in each week, and circulating throughout the locality in which the restricted area is situated.

‘(3) The notice must state each of the following—

- (a) that an area has been declared to be a restricted area;
- (b) the location and boundaries of the area;
- (c) where a map showing the boundaries of the area is available for public inspection;
- (d) if a person is an owner of land in the area, the circumstances under which the owner must sign a fire ant declaration;
- (e) where a copy of the fire ant declaration can be obtained;
- (f) if a person is carrying on a commercial activity in the area, the circumstances under which the person must have an approved risk management plan;
- (g) if an owner is required under section 18RD to implement a risk management plan, the day from which the plan must be implemented.

‘Subdivision 2—Movement restrictions

‘18RB Owner must sign fire ant declaration when moving restricted item

‘(1) This section applies to an owner of land in a restricted area if the owner moves a restricted item that the owner reasonably believes is not infested with the fire ant—

- (a) from the owner’s land to another person’s parcel of land in the restricted area; or
- (b) out of the restricted area.

‘(2) The owner must not, without an inspector’s approval, move the item unless the owner signs a declaration in the approved form (a **“fire ant declaration”**) stating that the owner will move the item in a way that complies with the requirements of the declaration.

‘(3) The owner must give the declaration to the person receiving the item.

‘(4) The person receiving the item must keep the declaration for at least 1 year, unless the person has a reasonable excuse.

‘(5) However, an owner need not comply with this section if the owner has an approved risk management plan under section 18RD.

‘(6) This section does not limit another provision of this part.

‘18RC Restriction on moving infested thing

‘(1) An owner of land in a restricted area must not, without an inspector’s approval, move, or allow another person to move a restricted item or other thing infested with the fire ant—

- (a) from the owner’s land to another person’s parcel of land in the restricted area; or
- (b) out of the restricted area.¹

‘(2) However, the owner may move the thing to an approved disposal site for the restricted area.

‘(3) If the owner moves the thing to an approved disposal site, the owner must—

- (a) sign a fire ant declaration for the thing before the owner moves the thing to the site; and
- (b) give the declaration to an authorised person at the site.

‘(4) The authorised person must keep the declaration for at least 1 year, unless the person has a reasonable excuse.

‘(5) This section does not limit another provision of this part.

‘Subdivision 3 —Risk management plans

‘18RD Business person must have risk management plan

‘(1) This section applies to a person (a “**business person**”) carrying on a commercial activity in a restricted area if an inspector—

- (a) reasonably believes the activity may spread the fire ant—

¹ See section 12(2) (Notification of pests) of the Act.

- (i) from a parcel of land in the restricted area to another parcel of land in the area; or
- (ii) out of the restricted area; and

(b) gives the person notice, either in writing or orally, to that effect.

‘(2) The business person must implement and keep a risk management plan that complies with section 18RF for the commercial activity (an **“approved risk management plan”**).

‘(3) In deciding whether the activity or other thing may spread the fire ant, the inspector must have regard to—

- (a) the nature of the activity or thing; and
- (b) where the activity is carried out.

‘(4) This section does not limit another provision of this part.

‘18RE Restrictions on business person moving thing associated with commercial activity

‘(1) A business person who has been given a notice under section 18RD must not, without an inspector’s approval, move, or allow another person to move, a thing associated with the business person’s commercial activity unless—

- (a) the person has an approved risk management plan for the person’s commercial activity; and
- (b) the movement complies with the plan.

‘(2) This section does not limit another provision of this part.

‘18RF Requirements for risk management plans

‘(1) A risk management plan must manage the risks associated with the commercial activity carried on in a restricted area by a business person by using proactive management techniques to protect the activity, or the things associated with the activity, from spreading the fire ant.

‘(2) A business person must seek advice on matters relevant to the preparation of the person’s plan from an inspector.

‘(3) The plan has no effect unless it has been approved by an inspector.

‘18RG Approval of risk management plan

‘(1) An inspector must, when deciding whether to approve the risk management plan, consider if it—

- (a) takes into account the risks posed by the commercial activity carried on by the person that may spread the fire ant; and
- (b) identifies any thing (“**high risk item**”) or procedure associated with the activity that may spread the fire ant; and
- (c) ensures any high risk item is not infested with the fire ant.

‘(2) The factors the inspector must consider, if applicable to the commercial activity, include, but are not limited to, the following—

- (a) purchase of high risk items;
- (b) movement of high risk items onto and off the site where the commercial activity is carried out;
- (c) storage and use of high risk items on the site;
- (d) methods to increase the early detection of the fire ant on the site;
- (e) monitoring of the site to detect the presence of the fire ant;
- (f) treatment for the fire ant at the site;
- (g) treatment of a high risk item before moving the item off the site;
- (h) staff training on detection of the fire ant.

‘(3) The person must provide any information the inspector reasonably requires to decide whether the plan should be approved.

‘(4) Before approving the risk management plan, the inspector may—

- (a) inspect, test or treat or take samples of a restricted item or other thing associated with the person’s commercial activity; or
- (b) do anything else the inspector reasonably considers necessary or desirable.

‘(5) An inspector may approve a business person’s risk management plan subject to conditions.

‘18RH DPI fire ant approved logo

‘If a business person has an approved risk management plan, an inspector may give the person a DPI fire ant approved logo.

‘18RI Term of approved risk management plan

‘An approved risk management plan remains in force—

- (a) for any term stated initially; or
- (b) for any term an inspector later directs; or
- (c) until it is cancelled or suspended.

‘18RJ Audits

‘An inspector may audit a risk management plan to decide if it has been satisfactorily kept under this part.

‘Subdivision 4—Cancellation and suspension of approved risk management plan

‘18RK Grounds for cancellation and suspension

‘Each of the following is a ground for cancelling or suspending a business person’s approved risk management plan—

- (a) an inspector considers, on reasonable grounds, that the person has not complied with the plan;
- (b) the approval was obtained by incorrect or misleading information or documents;
- (c) the person has contravened a condition of the approval;
- (d) the person has not complied with a direction by an inspector to amend the plan.

‘18RL Procedure for cancellation and suspension

‘(1) If an inspector considers a ground exists to cancel or suspend a business person’s approved risk management plan, the inspector must give the person written notice stating each of the following—

- (a) the proposed action;
- (b) the grounds for the proposed action;
- (c) the facts and circumstances that form the basis for the grounds;

- (d) if the proposed action is a suspension—the proposed suspension period;
- (e) that the person may make, within a stated period (the “**show cause period**”), written representations to show why the proposed action should not be taken.

‘(2) The show cause period must end at least 14 business days after the person is given the notice.

‘(3) If the inspector decides to take the proposed action, the inspector must, within 5 business days after making the decision, inform the person of the decision by written notice.

‘(4) The decision takes effect when the notice is given.

‘(5) However, if the inspector considers it necessary to prevent the fire ant spreading or to eradicate the fire ant in the State, the inspector may, by written notice to the person, immediately suspend the approved risk management plan until the earlier of the following—

- (a) the inspector informs the person of the inspector’s decision by notice under subsection (3), given after complying with subsections (1) and (2);
- (b) the end of 60 days after notice to the person.

‘(6) If the inspector immediately suspends the approval, the notice must state—

- (a) the decision, and the reasons for it; and
- (b) that the person may apply to the chief executive under section 21M² of the Act for reconsideration of the decision; and
- (c) how to apply.

‘Division 5—Introduction restrictions for tropical fire ants

‘18RM Live tropical fire ants and infested things

‘(1) A person must not, without an inspector’s approval, introduce the following into the State from another State in which the pest tropical fire ant is known to be living—

2 Section 21M (Application for reconsideration of administrative decision) of the Act

- (a) a live tropical fire ant;
- (b) any thing infested with the tropical fire ant.

‘(2) An inspector may give approval only if the inspector is satisfied the introduction of the thing will not pose a significant risk of introducing the tropical fire ant into the State.

‘18RN Restricted items

‘(1) This section applies for restricted items that come from another State in which the pest tropical fire ant is known to be living.

‘(2) A person must not introduce the restricted item into Queensland unless an inspector approves the introduction of the item.

‘(3) An inspector may give an approval only if the restricted item is accompanied by a certificate, from an interstate inspector, that states—

- (a) the item is dispatched from a property that is more than 5 km from an infestation of tropical fire ant; or
- (b) the item, when inspected by the interstate inspector, was free from evidence of tropical fire ant.’.

8 Omission of pt 5B (Tropical fire ant)

Part 5B—

omit.

ENDNOTES

1. Made by the Governor in Council on 14 February 2002.
2. Notified in the gazette on 15 February 2002.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Primary Industries.