

Plant Protection (Dickeya-Pineapple Strain) Notice 2016

Explanatory notes for SL 2016 No. 54

made under the

Plant Protection Act 1986

General Outline

Short title

Plant Protection (Dickeya-Pineapple Strain) Notice 2016

Authorising law

Sections 4 and 11 of the *Plant Protection Act 1986* (the Act).

Policy objectives and the reasons for them

The purpose of this subordinate legislation (the notice) is to prescribe pineapple-infecting strains of the bacteria *Dickeya* spp. as a prescribed pest under section 4 of the Act, and to declare the whole of Queensland as a pest quarantine area for the pest. The objects of the notice are to prevent the spread of the pest within the pest quarantine area and to control or remove the pest in or from the pest quarantine area for the purposes of the Act.

For the first in time in Queensland, pineapple-infecting species of the *Dickeya* genus of bacteria have been detected on a commercial pineapple plantation in the Glasshouse Mountains area, requiring an urgent biosecurity response. There are a number of known species and strains of the bacteria *Dickeya* but it is not yet known which species and strain has been detected infecting pineapples in Australia. Consequently, the notice is directed at all pineapple-infecting *Dickeya* strains. Disease symptoms from the strain of *Dickeya* in the affected pineapple plants in Queensland include soft rot of the fruit, stem and leaves.

Queensland is home to 95 percent of the Australian pineapple industry and it currently is the only state to have detected the bacteria. The spread of *Dickeya* in Queensland could lead to similar consequences to those observed overseas where up to 40 percent loss of production is reported due to bacterial heart rot and fruit collapse.

Australia's key technical body for coordinating national responses to plant pest incursions, and assessing the technical feasibility for their eradication, the Consultative

Committee on Emergency Plant Pests (CCEPP) has considered this pest. At its meeting on 11 April 2016, the CCEPP determined that the incident related to a suspect Emergency Plant Pest as defined under the *Government and Plant Industry Cost Sharing Deed in respect of Emergency Plant Pest Responses Deed* (Emergency Plant Pest Responses Deed (EPPRD)). The CCEPP also decided that, based on the available information at that time, it is technically feasible to eradicate the pest. This means that the pest is covered by the EPPRD, a formal legally binding agreement between the Australian Government, all state and territory governments and national plant industry body signatories. It covers the management and funding of responses to Emergency Plant Pest incidents, including the potential for owner reimbursement costs for growers who suffer costs or losses as a direct result of the implementation of an approved response plan. It also formalises the role of plant industries' participation in decision making, as well as their contribution towards the eligible costs related to approved incident responses. The making of this notice is consistent with the actions required under the EPPRD.

The notice will enable Biosecurity Queensland, within the Department of Agriculture and Fisheries, to conduct tracing investigations to determine the source of the planting material associated with the detection, and begin surveillance to determine the extent of the potential outbreak, including if there are any other suspect diseased plants in the immediate vicinity of where the first detection has occurred, in other plantings of this source material, or more broadly in the pineapple industry. The notice will also provide for the containment of the outbreak through restricting the movement of restricted items, which includes pineapple plants and appliances that may have come in contact with infected pineapple plants. Urgent action, including surveillance and containment, could enable a successful eradication program for this potentially serious plant pest.

Consistency with policy objectives of authorising law

The subordinate legislation is consistent with the main objectives of the Act which include to prevent, control or remove pest infestation of plants in Queensland.

Inconsistency with policy objectives of other legislation

The subordinate legislation is not inconsistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

There are no alternative ways to effectively achieve the policy objectives.

Benefits and costs of implementation

The subordinate legislation will benefit commercial pineapple growers by enabling the appropriate biosecurity response for the control and containment, and potential eradication, of the plant pest.

The restrictions on movement of restricted items will have an impact on the pineapple industry through restricting the movement of pineapple fruit and plants, soil, and machinery, equipment and other things that have or may have come in contact with an

infected plant, from confirmed or suspect infected properties. These impacts will be mitigated by the issuing of inspector's approvals where movement of the restricted item will not pose a significant risk of spreading the pest. This will include approving the movement of restricted items from properties that are not known or suspected to be infected, and where appropriate measures can be implemented to mitigate the risks of spreading the pest to an acceptable level.

The requirement to allow surveillance will generally cause only minor inconvenience to pineapple growers.

There will be some cost to the Queensland Government associated with enforcement of the movement restrictions, giving inspector's approvals and undertaking surveillance. However, the EPPRD provides for how these costs will be shared among the parties to that agreement.

Consistency with fundamental legislative principles

The subordinate legislation is generally consistent with fundamental legislative principles.

However, the provision requiring landowners to allow an inspector to enter their land for surveillance activities, including taking and testing samples of plants or soil which may have come in contact with the pest, is a potential breach of section 4(3)(e) of the *Legislative Standards Act 1992* - Legislation should confer power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer.

Requiring landowners to allow entry onto their land is warranted by the seriousness of the potential risks associated with the pest affecting the pineapple industry. The requirement for entry to land is qualified by excluding a dwelling house from the scope of the land on which an inspector may enter.

Consultation

The CCEPP, which includes the pineapple industry representative body, Growcom, has been consulted on this detection and the proposed response actions.

The pineapple industry has also been directly consulted on the detection and proposed response actions through Growcom.

The Office of Best Practice Regulation (OBPR) within the Queensland Competition Authority has been consulted on the need to prepare a Regulatory Impact Statement (RIS) for the subordinate legislation. The OBPR has advised that the proposal aligns with the exclusion category relating to regulation for a matter that requires an immediate legislative response to prevent damage to property or injury to persons, and to which the additional time required by the preparation of a RIS would represent an unacceptable increase in the risk of damage or injury.