

BIOSECURITY ACT 2015

Biosecurity Regulation 2017

Control Orders

What is a control order?

A control order can prohibit, regulate or control the doing of anything, subject to certain limitations, to prevent the introduction or eradicate biosecurity matter that poses or is likely to pose a biosecurity risk.

A control order can be made by the Minister (or delegate) if there is reasonable believe it is necessary to prevent, eliminate, minimise or manage a biosecurity risk or impact. The Minister may also authorise a person (the delegate) to exercise the functions of the Minister to make control orders.

A control order has effect for a period specified in the order but not exceeding 5 years. Although a control order can be extended by the Minister or delegate, for up to five years. A control order will generally be made to eradicate or prevent the spread of medium or high risk biosecurity matter and it is not intended to serve as a long-term management tool.

A control order can be made quickly to provide a timely response to a biosecurity risk or impact. This could include a response to a significant biosecurity risk or impact where emergency measures, such as those prohibiting the movement of people, are not required. A control order can provide an immediate response to a biosecurity risk while longer term management arrangements are being developed.

For example, a control order could be used to respond to the contamination of farmland. It would aim to prevent the contaminant entering the human food chain by requiring the containment, treatment or disposal of soil, stock, plants or products from the contaminated area. It would be likely also to prohibit grazing and other agricultural production

on the contaminated area, and require decontamination actions such as removal or deep burial.

A control order can also be used to transition from an emergency situation once the emergency has been contained, the matter identified and required management arrangements for containment and eradication are clearer and emergency measures are no longer required.

How will a control order work?

A control order can establish one or more zones within which certain control measures are required, and can also require measures to be taken outside the control zones if necessary.

A control order must:

- state the biosecurity matter, risk or impact that is the subject of the order
- establish one or more control zones within which the control measures must be implemented
- state the required control measures
- state who the order applies to (this may be persons or a class of persons, for example persons who own or are in charge of cattle)
- state how long the order will be in force.

A control order is published or distributed so that anyone likely to be affected is made aware of it. If it applies to only one or a number of specific properties it must be given to the owners, occupiers or managers of those properties, and may or may not be more widely distributed.

The Minister or delegate may amend or revoke a control order at any time.

A control zone can be a specified property or properties, a specified area or the whole of the State. Where an order establishes more than one control zone, these can be designated as different

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W www.dpi.nsw.gov.au/biosecurityact

E biosecuritylegislation@dpi.nsw.gov.au

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classes of zone, each requiring different management actions.

What measures can be applied by a control order?

Control measures may include requirements to take, or not to take, any action necessary to prevent, eliminate, minimise or manage the biosecurity risk or biosecurity impact.

Control measures can include:

- the prohibition of specified activities that involve biosecurity matter, a carrier or a potential carrier
- restricting or prohibiting the movement of biosecurity matter, a carrier or a potential carrier
- the isolation or confinement of biosecurity matter or any other thing
- the treatment of biosecurity matter, a carrier or a potential carrier
- taking samples or testing of biosecurity matter or any other thing
- the erection of fences, gates or signs
- the destruction, disposal or eradication of any thing, and the manner in which it is to be done
- arranging for a third party to undertake testing, treating, monitoring or any other action
- other measures described in section 69 of the *Biosecurity Act 2015*.
- A control order cannot:
 - prohibit, regulate or control the movement of a person, or
 - require any treatment measure to be carried out of a person, or

- require the sampling, testing or treatment of a person or expressly restrict a person's movements.

Can a control order require the destruction of animals, plants or other things?

Yes, a control order may specify the destruction of things that are posing a biosecurity risk for example, a pest animal or plants infected with a virus.

However there are limitations. For example, a control order cannot require the destruction of a thing unless:

- it is or it is suspected of being, prohibited matter or a carrier of prohibited matter
- it is a pest to which the control order relates or it is or is suspected of being, infested or infected with or harbouring the biosecurity matter to which the control order relates and there are no other reasonably practicable treatment measures available
- the thing is or is reasonably suspected of being abandoned and it is biosecurity matter to which the control order relates.

Additional limitations apply to the destruction of native flora and fauna, heritage items and game animals. The Minister for the Environment must be consulted before an order is issued requiring the clearing of native vegetation or the destruction of protected or threatened native species, or items subject to a heritage order. Similarly, the Chairperson of the Game and Pest Management Advisory Board must be consulted if the destruction of game animals is to be included in a control order.

Where can I find current control orders?

Control orders currently in force can be found at: www.dpi.nsw.gov.au/biosecurityact

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