

BIOSECURITY ACT 2015

Biosecurity Regulation 2017

Emergency Orders

When can an emergency order be made?

An emergency order can be made when a biosecurity risk occurs or is about to occur that is, or may have a significant biosecurity impact on the economy, environment or community and emergency measures are required

The order will specify what must be done to isolate, prevent the spread and if practicable, eradicate the of the biosecurity risk.

Example

Following the identification of an 'emergency' plant disease such as fire blight or citrus canker, on an orchard in NSW an emergency order could be issued to regulate the movement of people, plant material (including fruit), vehicles and orchard equipment from an 'emergency zone' around the infected property.

Before the emergency order is issued an authorised officer may issue an individual biosecurity direction to the property owner to regulate the movement of people onto and off the property including requiring a person to undergo a decontamination treatment.

How will an emergency order work?

An emergency order must:

- state the biosecurity matter, risk or impact that is the subject of the emergency
- establish an emergency zone (or zones) within which the emergency measures must be implemented
- specify the required emergency measures
- state who the order applies to (this may be persons or a 'class of persons' for example, livestock transporters)

- state how long the order will be in force.

An emergency order must be displayed and distributed in such a way that the people likely to be directly affected by the order are made aware of it. Emergency orders are published on the Department's website and in the Government Gazette and if an order is property specific, a copy of the order will be served on the owner, occupier or person in charge of the property. Emergency zones established by the order can range from a specific property to a local government area, or the whole of the State. There can also be different classes of zones requiring different response measures. Specified measures may also apply outside the emergency zone if necessary depending on the nature of the emergency.

An emergency order prevails over other instruments in the *Biosecurity Act 2015* (the Act), and cannot be overruled by an interim injunction issued by any court or tribunal.

The Secretary (or delegate) may amend or revoke an emergency order at any time.

What measures can be applied by an emergency order?

Emergency measures may prohibit, regulate or control the doing of anything including prohibit a person from entering or leaving a specified area They cannot be any more onerous than are necessary to achieve the aims of the order.

Emergency measures may apply within an emergency zone or outside the emergency zone. Other emergency measures include prohibiting or regulating movement, require the isolation, testing

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or treatment of biosecurity matter or carriers, the erection of signs, fences or gates, the destruction or disposal of any thing, the installation of devices to monitor biosecurity matter or carriers, and the means by which any of these things must be done.

Under an emergency order, persons can be subject to external, visual inspection only (including of their clothing and hair) and external treatment (such as a footbath), but not to the sampling of bodily fluids or other body parts. Other special measures are available to control the movements of people and vehicles into and out of an area, including by closing roads, and requiring the treatment of vehicles.

Can an emergency order require the destruction of animals, plants or other things?

An emergency order can require the destruction of biosecurity matter or other things if it is reasonably necessary to prevent, eliminate or minimise a significant biosecurity impact, or if the biosecurity matter is an animal and the welfare of the animal is adversely affected or is likely to be adversely affected by the emergency measures. The owner or person in charge must be notified of the destruction requirement.

How long will an emergency order be in place?

An emergency order can be in force for a period specified in the order but not exceeding six months. However this period may be extended by the Secretary (or delegate) for a further period of six months, if required.

Examples when emergency orders may be applied

Emergency orders can be used when a biosecurity risk is having or could have a significant biosecurity impact. This would include an incursion of a pest or disease listed as prohibited matter under the Act, for example, foot and mouth disease, red imported fire ant or citrus canker.

Emergency orders are also available for responding to any biosecurity risk if there is or there is potential for a significant biosecurity impact, including when the risk is unknown, such as incursion of an exotic unidentified pest or disease organism.

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