

BIOSECURITY ACT 2015

Authorised Officers FAQs

Frequently Asked Questions

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Authorised officers

Will there be a NSW DPI endorsed version of certificate of authorisation for weeds compliance officers?

The Act provides for Local Control Authorities (LCA) to appoint authorised officers to control weeds. This is a separate administrative process to that required for DPI and LLS authorised officers.

DPI has developed an instrument of appointment for authorised officers that will be shared with LCAs for their use if considered appropriate. Note that a person appointed as an authorised officer by a LCA may only exercise their functions in relation to weeds within the LCA region unless an arrangement has been entered into with another LCA region.

Authorised officer appointment – by council of Local Government Area or General Manager with delegation under Local Government Act 1993?

The council of a local government area is the local control authority for land within that local government area unless the weed control functions for that area have been conferred on a county council.

A local control authority has the function to appoint authorised officers for weed control activities. The individual who undertakes the function will be determined by the person authorised to represent that local control authority.

Therefore the officers are appointed under the Biosecurity Act by the General Manager or equivalent of the LCA – defined in the Local Government Act.

For more information about the Act, visit our website or contact us:

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What happens when an authorised officer is aware of something but does nothing?

Those with the regulatory roles of authorised officers carry a special public trust. This trust also implies that they will fulfil the role both responsibly and professionally.

Authorised officers are expected to exercise their functions and powers with care, integrity and professionalism. They are also expected to:

- act in the public interest
- act consistently, impartially, and according to law
- adhere to policy and procedures
- conduct themselves in a professional manner and be accountable for their decisions
- ensure they do not discriminate
- respect the confidentiality of information acquired during their activities
- keep full and accurate records
- act in a fair and equitable manner
- advise of rights under law
- be impartial, discreet and well-mannered at all times.

Failure to exercise functions appropriately may result in disciplinary action.

When is information gathered to be classed as evidence? In an inspection, are authorised officers gathering evidence or information?

Division 2 of the *Biosecurity Act 2015* prescribes information gathering powers. This includes powers of authorised officers to require information and records, the power of officers to require answers, and the recording of evidence using a recording apparatus if necessary. Information and evidence gathered may be used in any criminal proceedings.

What are the ramifications for cross-border (rivers) issues associated with aquatic biosecurity? Will Queensland authorised officers require appointment in NSW under the new Act?

Section 380 of the *Biosecurity Act 2015* provides for extraterritorial exercise of functions where the Minister may enter into an arrangement with a Minister of another State or a Territory. An authorised officer or an officer of another State or a Territory may, in accordance with any such arrangement, exercise functions under this Act in another State or a Territory, but only to the extent that the matters concerned relate to a biosecurity impact or potential biosecurity impact on this State.

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Does DPI NSW require Local Control Authority authorised officers to undertake EMtrain already listed on dashboards – induction to DPI response, working in agricultural emergencies, emergency management overview, and acceptable use of biosecurity information?

Any person wishing to be authorised under the Biosecurity Act, must complete the online training. Attendance at the face-to-face training is also highly recommended. Other EMtrain modules such as emergency management overview are strongly encouraged to complement your Biosecurity Act training and knowledge base.

Does an authorised officer have the power to sight a person’s personal identification, certificate of title/lease?

Yes. Division 2 of the *Biosecurity Act 2015* provides for information gathering powers. This includes powers of authorised officers to require information and records, the power of officers to require answers, and the recording of evidence.

Do authorised officers require approval from Industry legal to issue an infringement notice?

No. However, authorised officers must comply with the requirements and approval processes of the Penalty Notice Procedure available at:

Procedures intranet: <https://intranet.industry.nsw.gov.au/policies/procedures/operational-and-industry-procedures>

If an authorised officer discovers a biosecurity issue while conducting a fisheries compliance action, how do I transition from one authority to another (so as to avoid crossing Acts)?

Any action taken in relation to the detection of a biosecurity risk must be conducted in accordance with the *Biosecurity Act 2015*.

Does a fisheries officer under the Fisheries Management Act 1994 have authority to stop a vehicle or vessel under the new Biosecurity Act 2015?

All Fisheries Officers will also be authorised under the Biosecurity Act.

Which Act action is taken under will be dependent on the risk being addressed. If a vehicle or vessel is stopped in the course of your duties as Fisheries Officer and you detect a biosecurity risk or event, subsequent action in relation to that risk or event should be in accordance with the Biosecurity Act.

When does an authorised officer have a dealing?

Section 12 of the *Biosecurity Act 2015* provides for all circumstances when anyone, including an authorised officer, is engaging in a dealing with a biosecurity matter or a carrier. This includes but not limited to keeping, possessing, moving and importing biosecurity matter or a carrier.

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Directions/Undertakings

When receiving an undertaking does the individual then make themselves liable to enforcement action if they do not follow through?

Yes. A person who contravenes a biosecurity undertaking is guilty of an offence – refer section 146 of the Act.

What will be the determination of how a biosecurity direction must be served?

Section 127 of the Act prescribes how a general biosecurity direction is given and section 129 prescribes how an individual biosecurity direction is given. Authorised officers should also refer to the biosecurity direction policy and procedures.

What happens when biosecurity directions are challenged?

A biosecurity direction is enforceable under the Biosecurity Act. Non-compliance with a biosecurity direction is an offence under section 138 of the Act. If a person fails to take action under a biosecurity direction and authorised officers takes action to remedy the failure, the Secretary may charge a fee for that action – this is called a recoverable amount and is issued to the person as a cost recovery order. A person aggrieved by such a decision may appeal to the Land and Environment Court – refer section 328.

Can a biosecurity direction be given over the phone?

A general biosecurity direction must be published, or if given in the case of an emergency displayed in a prominent place.

Individual biosecurity directions may be given orally however must be given in writing within 7 days unless the direction has been complied with.

A direction is issued under an old Act and is not complied with. Will prosecution be under old Act?

Schedule 7 of the Biosecurity Act prescribes savings, transitional and other provisions. In general, any instrument in force before repeal of the repealed Act and anything done before the repeal of the repealed Act continues to have effect. Authorised officers should however carefully consider these provisions and seek additional advice for specific matters.

Can a weed biosecurity direction be issued to a NSW government department?

The Act is based on a tenure neutral approach to managing biosecurity risks. A biosecurity direction may be issued to any person or entity. Prior to issue however the risk must be carefully considered.

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Where a property is owned by multiple individuals – who is a biosecurity direction issued to? Can you issue a direction to a property manager, e.g. groundskeeper?

A biosecurity direction may be given as a general biosecurity direction or an individual biosecurity direction. A general biosecurity direction applies to the public generally or to a specified class of person such as those who engage in a specified activity or frequent a particular premises.

What type of direction and who it is given to will depend on the specific circumstances.

Section 392 of the Biosecurity Act 2015. Does service of other documents also refer to a biosecurity direction?

Sections 127 and 129 prescribe how biosecurity directions are given. Sections 127 and 129 should be read in conjunction with Section 392 of the Act.

Who is a biosecurity direction sent to when the property owner cannot be found?

Section 127 and 129 prescribes how biosecurity directions are given. The nature of the circumstances will determine the type of biosecurity direction and how it is given. For example, in an emergency, the notice may be displayed in a prominent place or adjacent to the premises.

Can an authorised officer accept an undertaking from a managing director on behalf of a company?

Yes.

How is it possible to serve a notice on public entities in regard to weeds or invasive species?

Biosecurity directions may be given as prescribed in section 127 & 129. Additionally, s.392 prescribes the service of notices and other documents.

Can a biosecurity undertaking be issued to the organiser of a fishing competition?

Yes.

The notification for a biosecurity direction to a group is on the DPI website. How are people to know to look?

In the case of the issue of a general biosecurity direction, additional communications methods will be considered based on the risk and class of persons to whom the direction applies. Authorised officers should also be proactive in advising affected persons.

What is the process for publishing biosecurity directions on the NSW DPI website?

Until further notice, completed biosecurity directions may be forwarded to joanne.cumming@dpi.nsw.gov.au for publishing.

For more information about the Act, visit our website or contact us:

W www.dpi.nsw.gov.au/biosecurityact E biosecuritylegislation@dpi.nsw.gov.au

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How do LGA officers access the Government Gazette for group notifications for biosecurity directions and timeframe?

The NSW Government Gazette can be accessed at: <http://www.legislation.nsw.gov.au/#/gazettes>

These will also be made available on the NSW DPI website at: <http://www.dpi.nsw.gov.au/biosecurityact>

Further information can be accessed in NSW DPI's intranet at: <https://intranet.industry.nsw.gov.au/know-the-department/our-structure/dpi-biosecurity-food-safety>

Is a biosecurity direction suitable to be published on Local Government Area website?

Where relevant, yes. However, it is recommended that any Local Government Area web page creates a link to the www.legislation.nsw.gov.au or NSW DPI legislation web presence.

Can an individual submit a self-developed management plan as an undertaking?

Yes. Under section 142 of the *Biosecurity Act 2015*, an authorised officer may accept a biosecurity undertaking from a person instead of giving the person a biosecurity direction, provided that undertaking meets the requirements of a biosecurity undertaking as detailed in Part 10 of the Act.

Can a written direction be issued to someone who is illiterate?

Yes. A third party can be engaged to confirm the contents of the direction to the person in question.

How long are current undertakings under existing legislation valid for? Will they transition to the new Act?

Undertakings issued under the pre 1 July 2017 biosecurity legislation will remain in place until such time as they are revoked or expire.

Can a biosecurity direction be issued before an offence?

A biosecurity direction can be issued before or after an offence. The direction, which is legally enforceable, can be issued to prevent, eliminate or minimise a particular biosecurity risk, or to enforce a requirement of the *Biosecurity Act 2015*.

Who takes work health and safety responsibility/duty of care when a person injures themselves while undertaking the requirements of a biosecurity direction?

The person to whom the direction is issued would accept the work health and safety responsibility of activities on the land and biosecurity risk for which they are responsible.

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Permits

Do we need a permit to move alligator weed for control purposes?

Alligator weed is managed under a biosecurity zone across the state except in Greater Sydney and some areas of the Hunter. The zone requires that the weed is notifiable – if the subject of a new infestation. Alligator weed must be eradicated, destroyed or suppressed. Permits are not required for these control activities.

Can authorised officers issue permits to themselves?

No. This would be a conflict of interest.

A property is owned by Mr and Mrs Smith. Who is an individual permit issued to?

It would depend on the specific situation. Permits may be issued to an individual, or a group permit may be issued for a class of person. Just because Mr and Mrs Smith own the property, does not mean that they are the appropriate person to which a permit may be issued. For example, if a biosecurity matter needed to be moved, the permit would be issued to the person moving that matter – not necessarily the person who owned the property. It is preferable to identify the appropriate individual to whom a permit can be issued.

Issue of group permit will require publication on the website.

Do authorised officers need a permit for transportation of biosecurity matter?

No. Authorised officers are exempt from permit requirements provided the activity is undertaken in the course of usual work requirements.

Biosecurity Order (Permitted Activities) 2017. Local Land Services to receive Animal Health Statement within 2 days. Is it 2 business days or 48 hours? Who must give the Statement to the relevant LLS office?

The Biosecurity Order (Permitted Activities) 2017 prescribes that a person may import into the State a sheep or goat, if the sheep or goat is not exhibiting any signs of footrot and paragraphs (a) and (b) are satisfied:

- (a) the sheep or goat is accompanied by an animal health declaration, and
- (b) copies of the animal health declaration are provided to:
 - (i) the person to whom the sheep or goat is delivered, and
 - (ii) no later than 2 working days after the importation, the relevant Local Land Services Office.

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Standardised documents

Will there be a standard template sent to Local Government Areas for issuing authorisation cards?

Yes. DPI is developing an instrument of appointment including an identification card that LCA are welcome to use. Further information can be located at: <https://intranet.industry.nsw.gov.au/know-the-department/our-structure/dpi-biosecurity-food-safety>

Will there be a specific template for certificates of authority for weed officers?

DPI has developed a range of standard forms and certificates for use by authorised officers.

Further information can be located at: <https://intranet.industry.nsw.gov.au/know-the-department/our-structure/dpi-biosecurity-food-safety> and <http://extranet.dpi.nsw.gov.au/weeds>

Standard documentation available (directions etc.) where access?

Policies, procedures and forms will be available on the department's legislation presence on the intranet at: <https://intranet.industry.nsw.gov.au/know-the-department/our-structure/dpi-biosecurity-food-safety>

Policies intranet: <https://intranet.industry.nsw.gov.au/policies/current-policies>

Procedures intranet: <https://intranet.industry.nsw.gov.au/policies/procedures/operational-and-industry-procedures>

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LCAs and weeds

If a weed is not listed on a priority weed list, how does general biosecurity duty apply under nil tenure approach?

All biosecurity matter, including weeds are subject to the general biosecurity duty if there is a biosecurity risk or impact. This applies regardless of the priority weeds list. The level of action or management response required to achieve an outcome in relation to that duty may be determined having regard to risk.

The Act does not distinguish between public and private lands – the general biosecurity duty applies regardless.

Is taking alligator weed off a boat trailer (not the trailer itself?) seizing?

No.

Why are some of the class 1 noxious weeds not included in prohibited matter? What are they?

The most appropriate management tool was identified for specific class 1 noxious weeds based on risk.

Weeds such as alligator weed, bitou bush and water hyacinth will be managed as biosecurity zones and are not included on the prohibited matter list. Other weeds such as blackberry and tropical soda apple are also not included on the prohibited matter list.

Does cost recovery for weed control go to the State Debt Recovery Office when control is undertaken by a Local Control Authority?

Section 373 allows a Local Control Authority to exercise the function of the Secretary in relation to cost recovery. Part 20 of the Act allows for an order to be served in writing on a person from whom a recoverable amount is recoverable under the Act and require the person to pay that recoverable amount.

Can we still carry out noxious weeds works on a property if the owner fails to carry out these works?

Yes. However, a biosecurity direction to the property owner must precede any action undertaken. The biosecurity direction is legally enforceable and offences against the *Biosecurity Act 2015* apply for non-compliance. Costs may also be recovered for this work.

How do LCAs deal with general weed (non-priority list) complaints?

The level of action required will depend on the risk posed. Whilst regional weeds plans list priority weeds for an area, other weeds may also pose a biosecurity risk and may require action to be taken. A risk management approach should be adopted and action scaled based on that risk.

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Can authorised officers for one Local Control Authority assist another, i.e. neighbouring Local Control Authority without an authorised officer of that Local Control Authority in attendance?

Yes. Authorised officers appointed by a Local Control Authority (LCA) can exercise their function in relation to weeds within that LCA region. However, a LCA may enter into an arrangement with one or more LCAs that authorise that officer to exercise their functions across those regions as well. There is no requirement to be accompanied by an officer from that region.

Can a Local Control Authority use S373 (b) – recovery of fees – as well as use other compliance enforcement tools on the same person/breach?

Yes.

Who deals with weeds on vehicles crossing Local Control Authority boundaries?

The driver of the vehicle has a general biosecurity duty to ensure their vehicle is not carrying weeds into areas where the weed may pose a risk. LCAs have a role in educating our stakeholders about these risks and may take enforcement action if appropriate.

How do Local Control Authorities enforce non-compliance with a state government agency?

The Act is tenure neutral. If non-compliance is detected, action should be taken proportionate to risk regardless of the individual or entity. In the case of weeds, the regional weed strategic plans will provide guidance on the risk ratings for weeds in a region.

Can we obtain warrants or a warrant that will cover off on a whole inspection program to enable weed officers to enter that part of a residential property that may contain potted plants? Does premises include surrounding land?

Entry to residential premises is not permitted without the permission of the occupier or the authority of a search warrant.

Under Section 7 (general definitions) of the *Biosecurity Act 2015*, a premises includes any land, building, structure or vehicle, and any place, whether built on or not.

If situation unmanageable for LCA, will DPI assist? (e.g. large scale operation).

DPI will provide assistance where appropriate. It will however depend on the situation and the risk.

Will the WeedsWise application be updated to reflect the new requirements? This is a major reference tool for the public.

Yes. WeedsWise has been updated to reflect the new legislation requirements and management tools. The revised application will be available on application stores at the commencement of the Act.

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W www.dpi.nsw.gov.au/biosecurityact E biosecuritylegislation@dpi.nsw.gov.au

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Division 8 Weeds in the Regulation. The term 'move' is no longer included in prohibitions on weeds. Import or sell remains with relation to Schedule 3. Please clarify.

Division 8 Weeds of the Biosecurity Regulation 2017 refers to restrictions on the importation and ban from sale of weeds as referenced in Schedule 3 of the Regulation.

Why isn't hay making gear included in the biosecurity order – weeds parthenium carrier?

The risk of parthenium weed incursions from a carrier rests significantly with the movement of headers, not hay making gear.

Are there any guidelines on the destruction of prohibited matter plants (weeds)?

Destruction of plants is subject to the same Australian Pesticides and Veterinary Medicine Authority label instructions or off label permits.

What is the legal standing of the Regional Strategic Weed Management Plans, if a species in Appendix 1 of those plans are enforced but not listed in the Act or Regulation?

All weeds are subject to the general biosecurity duty if they pose a biosecurity risk regardless of whether they are listed in the *Biosecurity Act 2015* and supporting legislation, this includes any weeds that may be listed in the Regional Strategic Weed Plans.

Is it reasonable under the Act to recover costs for control on private land for priority species not listed in the Act, Regulation or Regional Weed Management Plans?

Yes. Division 2 of the *Biosecurity Act 2015* prescribes that the Secretary may, by order in writing served on a person from whom a recoverable amount is recoverable under this Act, require the person to pay that recoverable amount.

All biosecurity matter, including weeds, is subject to the general biosecurity duty if there is a biosecurity risk or impact. This applies regardless of the priority weeds list. The level of action or management response required to achieve an outcome in relation to that duty may be determined having regard to risk.

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General

How is 'reasonably practicable' determined?

Reasonably practicable is used in relation to the prevention, elimination or minimisation of biosecurity risks.

What is reasonably practicable means that which is reasonably able to be done, taking into account and weighing up all relevant matters including the nature of the biosecurity risk concerned, the availability and suitability of ways to manage the biosecurity risk concerned and the cost involved.

How will Property Identification Codes in NSW be implemented for vineyards, orchards or vegetable producers?

Property Identification Codes are only allocated to properties in the livestock industry. Should another industry wish to implement a registration or traceability scheme, the Act provides the tools and powers to do so. Noting that any regulatory scheme must comply with the better regulation principles.

Are lousy sheep in a public place (road or saleyard) still an offence under the new Act?

The offence would rest with a person not discharging a general biosecurity duty if a biosecurity risk or impact was caused by the lousy sheep. This requires that any person who deals with biosecurity matter or a carrier and who knows, or ought reasonably to know the biosecurity risk posed, has a biosecurity duty to ensure that, so far as is reasonably practicable, the biosecurity risk is prevented, eliminated or minimised.

If a person is admitting to breaching legislation, should we caution?

A biosecurity undertaking or biosecurity direction must be issued to ensure that any biosecurity risk is prevented, eliminated or minimised.

Offences may apply for non-compliance with the *Biosecurity Act 2015*. Offences are detailed in Division 3 of the Act. Compliance and enforcement policies and procedures should be referred to which can be accessed at:

Policies intranet: <https://intranet.industry.nsw.gov.au/policies/current-policies>

Procedures intranet: <https://intranet.industry.nsw.gov.au/policies/procedures/operational-and-industry-procedures>

Is Footrot (virulent) treated as prohibited matter under Schedule 2 of the Act?

No. However, it is a requirement of Schedule 1 – Pests and diseases to be notified under the Biosecurity Regulation 2017.

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Will the breach section of the Livestock Health Management System be updated to reflect the new legislation?

Yes. The Livestock Health Management System is being updated as a part of the broader DPI NSW business systems reform to accommodate the *Biosecurity Act 2015*.

Section 30 (2) (c) of the Act. Where is the class of person described?

Section 124 of the *Biosecurity Act 2015* provides a description of class of persons in the context of issuing a biosecurity direction as 'persons who engages in a specified activity, or who frequent particular premises'.

What authority will Local Land Services officers have outside their current areas of expertise with animals per the Stock Diseases Act 1923?

Officers authorised under the Biosecurity Act will be able to exercise their functions across the entire biosecurity spectrum (except weeds officers). Your role description and regional priorities will influence your work. There are also policies and procedures available to provide further guidance about when you should and should not exercise your functions – for example in relation to an emergency, prohibited matter, conduct of audits and the issue of certificates.

If an authorised officer finds prohibited matter on a property, who must legally notify? The landholder or the authorised officer?

The authorised officer should immediately report the presence or suspected presence of prohibited matter in accordance with the reporting and notification policies and procedures. Hotlines for reporting of prohibited matter are also available on the NSW DPI website.

The landholder may also have a biosecurity duty if they knew or ought to have known that the prohibited matter was on their property. Notification is an obligation under the *Biosecurity Act 2015*.

Who will give me a permit to display prohibited matter and do I have to apply every time I display, move or store prohibited matter in a greenhouse?

It is an offence to deal with prohibited matter – this includes display. Prohibited matter permits may however be issued in certain circumstances.

Process of collecting evidence/proving guilt of dealing under section 12. How? What precedence is to be used?

Compliance and enforcement policies and procedures are available to assist an authorised officer is carrying out their functions.

Officers should consult their managers if unsure about any aspect of their role.

For more information about the Act, visit our website or contact us:

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

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As authorised officers taking reports of suspect dealings on phone, do we need to record under s93-95 of the Biosecurity Act 2015? If so, do we declare to reporter?

Section 93-95 relate to when you are required to gather information.

If a person is reporting suspect dealings, you should record this information using standard record keeping procedures. Sections 93-95 may be invoked if you are following up on that initial report.

People already authorised to access Roads and Maritime Services – are they authorised under the Biosecurity Act 2015?

Section 381 authorises Roads and Maritime to provide authorised officers with specific information on request.

Does interstate cooperation exist in the case of a proven offence in NSW?

Interstate cooperation arrangements and agreements are in place covering emergency control and other matters.

Are transport companies captured by the Biosecurity Act 2015?

Yes. The *Biosecurity Act 2015* applies to all individuals and organisations in NSW.

Do you have to be registered to transport livestock?

There are a number of requirements in relation to the movement of livestock – authorised officers should refer to the Biosecurity Regulation, the Biosecurity National Livestock System, and Biosecurity Order – Permitted Activities, for specific details.

If prohibited matter is reported, how is it dealt with then?

The response to a prohibited matter notification will depend on the nature of the prohibited matter and the immediate risk it is posing. Policies and procedures have been developed for dealing with prohibited matter such as anthrax and hendra.

What if an authorised officer is unable to discharge their general biosecurity duty due to lack of resources?

Resourcing issues should be discussed with your manager.

Local Land Services Management 10 year Agreements/contacts – fencing bushland etc. Do we need to change agreements in light of the Biosecurity Act 2015?

Local Land Services will seek legal advice on the status of the terms and conditions within the existing agreements/contracts.

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Blackberries in Schedule 3. How do nurseries still sell thornless blackberries?

The thornless blackberry is not listed as a prohibited matter under the Act, and it is only certain varieties of *Rubus fruticosus* that are banned from importation into the State or selling. Blackberry varieties Chester Thornless, Dirksen Thornless, Loch Ness, Silvan, Black Satin, Murrindindi, Smooth Stem, Thornfree and Chehalem are excluded as per existing arrangements.

Can a farmer send sheep that have serrated tussock seed in wool to saleyard?

The general biosecurity duty applies to persons who know or ought reasonably to know about a biosecurity risk. A farmer should be aware of the risks associated with serrated tussock seed and take action to mitigate that risk. The location of the saleyard and final destination of the sheep will influence the risk rating for this type of action.

A person receiving or buying those sheep also have a general biosecurity duty to prevent, eradicate or mitigate the risk.

Does sale of land discharge a person's biosecurity direction? What about their general biosecurity duty?

Individual directions are given to a person, and do not attach to the title of the land. If a person sells land before they discharge their responsibilities under the individual direction, then the Department will need to consider whether it needs to issue a new individual direction to the new owner. If that is the case, the Conveyancing (Sale of Land) Regulation 2010 ensures that the new owner should have notice of the individual direction, and the matters it contains.

The same scenario applies to a person's general biosecurity duty.

Can we pursue a person or entity under section 28 (dealing with prohibited matter) of the Biosecurity Act 2015 when they are importing prohibited matter from outside NSW given section 12(1)(d) (import biosecurity matter or a carrier into the State).

Yes.

Entry to premises – notice of entry. Under the weeds act an authorised officer must give oral or written notification of intention to inspect. Under the Biosecurity Act 2015 (section 98) may an authorised officer enter without any notification? What about a residential premises?

An authorised officer may enter any premises at any reasonable time, or in the case of an emergency, at any time. Entry to any premises may be effected with or without the authority of a search warrant.

Entry to residential premises is not permitted without the permission of the occupier or the authority of a search warrant.

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Can Local Land Services authorised officers issue penalty notices?

Yes. Part 8, Division 4 of the *Biosecurity Act 2015* authorises an authorised officer to serve a penalty notice on a person if it appears to the officer that the person has committed an offence against the Act or the regulations (being an offence prescribed by the regulations as a penalty notice offence).

NSW Interstate plant quarantine manual – is it going to be updated to include the *Biosecurity Act 2015*?

No. The NSW interstate plant quarantine manual is a requirement of the *Plant Diseases Act 1924*, which will be repealed upon the commencement of the *Biosecurity Act 2015*. Readers must refer to the new legislation framework and associated policies and procedures for plant quarantine matters.

Is there a reference for Biosecurity Act in Ausvet plan?

The Australian Veterinary Emergency Plan (AUSVETPLAN) is a coordinated national response plan for the management and wherever possible, eradication of exotic disease incursions and outbreaks of certain emerging or endemic animal diseases (EAD). In Australia, each state and territory has operational responsibility for the control and eradication of animal diseases, whether endemic or exotic, within its borders. Each state and territory administers its own EAD control legislation, which is supported by emergency service arrangements. In the case of an EAD, the NSW Biosecurity Act will provide the legislative underpinning for any action required in NSW.

Is NSW DPI Biosecurity and Food Safety specifically mentioned in the *Biosecurity Act 2015* as the responsible department?

No. However the Minister for Primary Industries has been assigned responsibility for administration of the *Biosecurity Act 2015* and DPI Biosecurity and Food Safety provide the lead role in supporting that requirement.

What is the difference between a prohibited matter event and a biosecurity event?

A prohibited matter event is the presence of biosecurity matter in a part of the State in which it is prohibited matter, or the introduction of biosecurity matter into a part of the State in which it is prohibited matter.

A biosecurity event means something that has occurred, is occurring or is likely to occur and that has had, is having, or is likely to have, a significant biosecurity impact, other than a prohibited matter event, or a biosecurity event includes anything declared by the regulations to be a biosecurity event.

How can I report plant emergencies out of hours?

The 24 hour Emergency Plant Pest Hotline is **1800 084 881**.

BIOSECURITY ACT 2015

Authorised Officers FAQs

Accreditation authority – where will this delegation go? NSW DPI only? Local Land Services? Local Control Authorities?

The delegation to appoint an accreditation authority will rest with the DG, DPI and the DDG Biosecurity and Food Safety.

When are policies/procedures for inspections for GBD to be available? (templates for Biosecurity undertaking, biosecurity duty).

All policies and procedures supporting the Biosecurity Act and Regulation will be available prior to the commencement of the Act, 1 July 2017. We are however attempting to make them available as they are finalised.

Why were non-indigenous animals put into prohibited dealings – why wouldn't they have been listed and managed as prohibited matter?

Prohibited matter refers to biosecurity matter that is not in the state or in part of the state. Prohibited matter is considered to be extremely high risk.

Many non-indigenous animals are already in the state and some are kept under registration provisions. Schedule 3 provides a flexible mechanism to manage these animals based on risk.

Does an organization such as Gumtree have a general biosecurity duty?

Yes. The *Biosecurity Act 2015* applies to all individuals and organisations in New South Wales.

Why do we need a disease, and a disease agent under biosecurity matter?

A disease means any infection of an organism having the potential to result in or resulting in an abnormal, pathological or unhealthy condition that is caused by a known or unknown disease agent.

A disease agent includes a prion, a microorganism, an infectious agent and a parasite.

What will happen to aquatic matter – import restrictions, abalone, pacific oysters, prawns?

Management of aquatic pest and diseases will continue under the Biosecurity Act. The actual tool used under the Act is based on risk and the management cycle of the biosecurity matter.

For example clause 18 provides for Prohibition on certain dealings such as in relation to oysters. Clause 20 provides for Abalone viral ganglioneuritis (AVG). QX and POMs will be managed under zone arrangements whilst white spot in prawns will be managed under a control order for now

BIOSECURITY ACT 2015

Authorised Officers FAQs

What will happen to current Fisheries Quarantine Orders?

Schedule 7 of the Biosecurity Act prescribes savings transitional and other provisions. In general, any instrument in force before repeal of the repealed act and anything done before the repeal of the repealed act continues to have effect.

Part 6, Division 4 Diseased fish and marine vegetation of the *Fisheries Management Act 1994* will be repealed on commencement of the *Biosecurity Act 2015*.

In place of the existing orders, biosecurity zones will be established under the Act for Pacific Oyster Mortality Syndrome and QX disease in Oysters.

What is the power of the *Biosecurity Act 2015* on Defence land?

The Biosecurity Act applies to all public and private lands in NSW.

Defence land falls under the jurisdiction of the Commonwealth government.

There are many plants that are present in the state that are not on the State herbarium, who will be reviewing this in light of importation into the state?

As per clause 34 of the Regulation, a plant is taken to not be present in the State if the National Herbarium of New South Wales does not show it as being present in the State.

Biosecurity and Food Safety will continue to monitor and assess risk in relation to biosecurity matter.

Compost is not identified as fertiliser in the Act or Regulation?

The definition of fertiliser in the *Biosecurity Act 2015* does not identify any of many different types of products. Fertiliser includes all products that contain nitrogen, phosphorus, potassium or sulphur and are sold or used to provide nutriment for vegetation. This includes compost and many other products. As specific products are not identified within the Act or Regulation, education and advisory material is being prepared to address different types of products.

Registered apiary sites on crown lands – are these recorded state-wide database and BIS?

The NSW Government is developing a whole-of-government policy framework for the management of apiary sites on public lands, including State forests, travelling stock reserves and National Parks. A discussion paper on these matters is currently out for public comment by 26 June 2017.

Please see: <http://www.dpi.nsw.gov.au/animals-and-livestock/bees/policy-framework>

Will feral pig permit come under registrable dealings?

The existing Pest Control Order under the Local Land Services Act will remain in force until such time as regional strategic pest plans have been developed and the appropriate tools determined for the management of pest animals under the Act.

For more information about the Act, visit our website or contact us:

W www.dpi.nsw.gov.au/biosecurityact E biosecuritylegislation@dpi.nsw.gov.au

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Authorised Officers FAQs

Non-Local Land Services properties in relation to pests. Do Local Control Authorities/weeds officers have any powers where Local Land Services don't do anything?

Action required in relation to biosecurity matter whether it is a weed or pest animal should be undertaken based on the risk that matter poses. Management responses should be based on a nil tenure approach.

Note officers authorised by an LCA as a weeds control officer functions do not extend to pest management unless specifically requested of the Secretary.

What is a common carrier? "Dealing with a common carrier" does it apply to weeds?

A carrier means anything (whether alive, dead or inanimate, and including a human) that has, or is capable of having, any biosecurity matter on it, attached to it or contained in it. Section 28g of the Act prescribes that the regulations may:

- (a) declare that a person or class of persons is a common carrier for the purposes of this section, and
- (b) declare that a person or class of persons is not a common carrier for the purposes of this section.

At this point in time, no common carriers have been declared.

Communications

Are there resources / documents/ policies on the biosecurity website that have been translated into other languages?

No. An interpreter service is available by calling **13 14 50** (within Australia only) and asking for a particular language. If there is a need to translate specific documents, we can investigate.

Suggestion: can you develop cheat sheet indicating which level (Regs, Act etc.) in which notifiables, prohibited matter etc. can be found?

There are prime facts sheets available covering key management tools under the Act. Staff should familiarise themselves with these and relevant sections under the Act and the regulations. The online training modules and study guides also provide guidance.

Will there be a *Biosecurity Act 2015* communications package about changes to legislation? There is a need for a consistent information package for Local Land Services officers to give to local stakeholders.

Yes. A comprehensive communications package has been developed for both internal and external stakeholders. This package includes fact sheets providing overview of management approaches by commodity group or risk area, toolkits for stakeholders and industry organisations that may be shared, Prime Facts with more detailed technical information, social and mainstream media.

For more information about the Act, visit our website or contact us:

W www.dpi.nsw.gov.au/biosecurityact E biosecuritylegislation@dpi.nsw.gov.au

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Authorised Officers FAQs

NSW DPI will be writing to Local Land Services General Managers and to Local Control Authority General Managers to provide them with the web-based references to this package.

General biosecurity duty – can we make it compulsory for industry associations to inform their members about the *Biosecurity Act 2015*?

NSW DPI will continue to work closely with industry associations and other stakeholders about the Act and their responsibilities.