

1998-99

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

**QUARANTINE AMENDMENT BILL, 1998**

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendment to be Moved on Behalf of the Government

(Circulated by authority of the Minister for Agriculture, Fisheries and Forestry, the Hon Warren Truss, MP)

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## Outline

### Overview

These proposed amendments will amend items 8, 11, 62 and 86 (Part IIA) of Schedule 1 of the *Quarantine Amendment Bill 1998*. The Bill was introduced in the Senate on 29 March 1999.

### Background

2. Items 8, 11 and 62 of Schedule 1 of the Bill removed the enabling mechanism by which the *Quarantine Act 1908* could be extended to Christmas Island by regulation. The government is currently reviewing the quarantine arrangements on Christmas Island and through this amendment seeks to ensure that the option of extending the *Quarantine Act 1908* to Christmas Island by regulation will continue to be available. At present, the quarantine regime for Christmas Island is based on a Singapore Ordinance.

3. Item 86 of Schedule 1 of the Bill inserts a Part IIA into the *Quarantine Act 1908*. In its present form, Part IIA requires a Director of Quarantine to seek the advice of the Environment Minister before making a decision which is likely to cause significant environmental harm. However, the present form of Part IIA does not provide a role for the Environment Minister in respect of the risk assessment process which is undertaken before the decision is made. The amendments will remedy this by imposing an obligation on a Director of Quarantine to seek, and to take into account, the advice of the Environment Minister on the adequacy of the risk assessment process and on the preliminary findings of the risk assessment process. The amendments will also oblige the Environment Minister, if he provides the advice, to give it within 28 days.

Although quarantine decision making already takes environmental considerations into account, the Government considers that the insertion of Part IIA as amended in the *Quarantine Act 1908* will provide an important expression of the role quarantine has in protecting the environment. This role was recognised in the Government Response to the report, *Australian Quarantine: A Shared Responsibility*, and in the Coalition's election policy statement, *Our Living Heritage*.

### Purpose of Amendment

4. The amendments in respect of Christmas Island will ensure that a mechanism exists in the *Quarantine Act 1908* to extend the Act to the Territory.

5. The amendment to Part IIA will strengthen environmental considerations in quarantine decision making in compliance with the commitments made in the policy statement entitled *Our Living Heritage*. In particular, the amendments will require that a Director of Quarantine seeks, and takes into account, the advice of the Environment Minister (defined as the Minister administering the *Environment Protection and Biodiversity Conservation Act 1998*) on the adequacy of the quarantine risk assessment process that is proposed to be followed in assessing the risk of harm to the environment and on the findings of the risk assessment.

6. The Director of Quarantine must seek this advice before making a decision under the *Quarantine Act 1908*, the implementation of which is likely to result in a significant risk of harm to the environment.

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7. The amendment also addresses the communication processes between the Environment Minister and a Director of Quarantine. The amendment requires that communications between the Environment Minister and a Director of Quarantine for the purposes of Part IIA must be in writing, and provides that if the Environment Minister gives advice, it must be provided within 28 days after the notice requesting the advice was given by the Director of Quarantine.

## Financial Impact

8. The amendment has no financial implications.

## Notes on Clauses

### *Date of Effect*

9. Section 2 of the *Quarantine Amendment Bill 1998* provides that item 86 (Part IIA) will commence on the same day as the *Environment Protection and Biodiversity Conservation Act 1998*. The amendment to Part IIA will have the same date of effect. The other amendments will commence on a day to be fixed by Proclamation pursuant to Section 2 of the Bill.

### *Explanation of Amendments*

10. Items 1 and 2 amend the definitions of *Australia* and the *Commonwealth* in Items 8 and 11 of the *Quarantine Amendment Bill 1998* to allow for the possibility that the *Quarantine Act 1908* may be applied to Christmas Island.

11. Items 3 to 5 reinstate the existing mechanism in the Quarantine Act 1908 which enables regulations to be made to extend the Act to Christmas Island.

12. Item 6 omits the existing sections 11C, 11D and 11E of Part IIA and substitute new sections 11C, 11D and 11E. The key changes made by the amendment are as follows.

13. New section 11C introduces a requirement for a Director of Quarantine to communicate with the Environment Minister, for the purposes of this section, by written notice. The section also imposes an obligation on a Director of Quarantine to request the Environment Minister to give advice to the Director as to the adequacy of the risk assessment process that has been or is proposed to be followed in assessing the risk of harm to the environment, and the adequacy of the preliminary findings of the risk assessment.

14. New section 11D specifies that if the Environment Minister provides advice, he must do so in writing to a Director of Quarantine within 28 days after a notice was given under section 11C.

15. New section 11E imposes an obligation on a Director of Quarantine to inform the Environment Minister in writing as to how any advice, provided by the Environment Minister, was taken into account.