

Biosecurity Bill 2013

Erratum to Explanatory Notes

Title of the Bill

Biosecurity Bill 2013

Reasons for Erratum

On 19 November 2013, the Biosecurity Bill 2013 (the Bill) was introduced into the Legislative Assembly. The Bill was subsequently referred to the Agriculture, Resources and Environment Committee (the Committee) with a report back date of 24 February 2014.

On 24 February 2014, the Committee tabled its report (No. 35) in relation to the Bill (the report). Recommendations 7 and 9 of the report requested that additional information be provided about consistency with fundamental legislative principles, relating to clauses 515, and 233-236 respectively. In addition, the Committee sought assurances that minor errors made in the Explanatory Notes would be corrected.

This erratum corrects these minor errors and provides the requested additional information about consistency with fundamental legislative principles.

Consistency with fundamental legislative principles

On page 8 of the Explanatory Notes, before the heading “*Legislation provides appropriate protection against self-incrimination – section 4(3)(f) LSA*”, insert:

“In addition, clauses 233 to 236 of the Bill provide for the chief executive, a local government, one or more chief executive officers of local government and an invasive animal board to carry out a biosecurity program. A biosecurity program includes surveillance or a prevention and control program which allow for determining the presence, absence or extent of biosecurity matter in the State. A biosecurity program provides for the entry by authorised officers to take measures under the program including trapping, testing, laying baits, monitoring processes and vaccinating animals. Under clause 261 an authorised officer may enter a place to take any action authorised by a biosecurity program.

The infringement of the FLP arises because an authorised officer may enter places where an occupier is not present or where the occupier does not consent to the entry to take action under a program.

The powers of authorised officers under clauses 233 to 236 may be justified on the basis that it is essential to have the ability to respond expediently to determine the presence or absence of biosecurity matter which may if left unchecked cause a significant impact to a biosecurity consideration.

It is recognised these are broad powers but it is considered these powers are justifiable and necessary to ensure the State is protected from biosecurity risks and satisfy trading partners that the State or any stated part of the State is free of particular pests and diseases or is complying with the requirements imposed by trading partners.

The Bill provides sufficient safeguards for the rights and liberties of individuals in respect of these powers. Under clause 239 of the Bill, the chief executive must as far as practicable consult with the relevant local government before authorising a biosecurity program. Similarly, a local government must before authorising a biosecurity program consult with the chief executive and where relevant an invasive animal board which has an operational area in or adjoining the local government's area and is responsible for the management of an invasive animal which is subject to the biosecurity program. Invasive animal boards before making a biosecurity program must consult with the chief executive and a local government with responsibility for an area in or adjoining the board's operational area.

Under clause 240 the authorising officer who authorises the program must give notice under clause 240(3) of the Bill to other government agencies owning land affected by the notice and publish the notice in a way prescribed under the Act.

Under clause 270 if after entering a place an authorised officer finds an occupier present at the place or the occupier refuses to consent to the entry, the authorised officer must make reasonable attempts to inform the occupier of the reason for entering the place and the authorised officer is authorised to enter.

If the authorised officer doesn't find the occupier present on entry, the authorised officer must leave a notice in a conspicuous place and in a reasonably secure way, stating the date and time of the entry and information addressing the reasons for entry.

Further safeguards are provided in that an authorised officer may only exercise powers in relation to taking action that is authorised under the surveillance program."

On page 11 of the Explanatory Notes, before the heading "***Legislation does not confer immunity from proceeding or prosecution without adequate justification – Section 4(3)(h) LSA***", insert:

“Legislation should not adversely affect rights and liberties, or impose obligations, retrospectively – Section 4(3)(g) LSA

Clause 515 provides for a transitional regulation-making power. A regulation under this section provides for making provisions which are necessary for transitioning anything from the current legislation to the Act. This provision has a 12 month 'sunset clause' and may have a retrospective operation.

It is considered a one year transitional regulation-making power is an acceptable provision to resolve complex transitional issues that are unforeseeable at the time of repealing or amending Acts. As the power is intended to resolve issues arising from the transition to new provisions, it is appropriate for it to apply from the commencement of the new Act."

Notes on Provisions

255 Powers of particular authorised officers limited

Omit '20km' and insert '20m'.

345 Operation of statutory compensation

- Omit ';' at the end of the third dot point and replace with '.'
- Omit the fourth dot point.

©The State of Queensland 2014